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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

चित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 17 अगस्त, 1995

का.आ. 2675.—चूँकि फा.सं. 801/11/94-पिट एन डी पी
एस दिनांक 27-1-94 के अंतर्गत संयुक्त सचिव, भारत सरकार
को स्वापक औषध तथा मनःप्रभावी पदार्थ अधिनियम, 1988
के खंड 3 के उपखंड (1) के अंतर्गत अवैध व्यापार को
रोकने के लिए विशेष रूप से शक्ति प्राप्त है, निदेश देते हैं
कि श्री फिरोज खान पुत्र श्री पीरशेद खान को स्वापक औषधों
के स्वामित्व, आपूर्ति तथा अवरोधित तथा पारगमन में शामिल
होने को रोकने के लिए नजरबंद किया जाए तथा
जिला कारागार, कोटा (राज.) में हिरासत में रखा जाए।

2. जबकि केन्द्रीय सरकार यह समझती है कि उपर्युक्त
व्यक्ति फरार होने अथवा अपने आपको छिपाने की चेष्टा
करता है ताकि आदेश को कार्यान्वित न किया जा सके।

3. अतः अब, उक्त अधिनियम के खंड 8 उपखंड (1)
क्लाज (ख) में विहित शक्तियों का प्रयोग करते हुए केन्द्रीय
सरकार एतद्वारा निदेश देती है कि उपर्युक्त व्यक्ति इस
आदेश के सरकारी गजट में प्रकाशित होने के 10 दिनों के
भीतर उप स्वापक आयुक्त, कोटा (राज.) के सामने प्रस्तुत
हो।

[फा. सं. 801/11/94-पिट एन डी पी एस]

वी. के. अरोड़ा, अधीक्षक सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 17th August, 1995

S.O. 2673.—Whereas the Joint Secretary to the Govern-
ment of India, specially empowered under sub-section (1)
of Section 3 of the Prevention of Illicit Traffic in Narcotic
Drugs and Psychotropic Substances Act, 1988, issued order
F. No. 801/11/94-PITNDPS dated 27-1-94 under the said
sub-section directing that Shri Firoz Khan So Shri Prished

Khan be detained and kept in custody in the District Jail, Kota (Raj.) with a view to preventing him from engaging in the possession, supply and abetting in the concealment and transportation of narcotic drugs.

2. Whereas the Central Government has reason to believe that the aforesaid person as absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of powers conferred by clause (b) of sub-section (1) of Section 8 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Deputy Narcotics Commissioner, Kota (Rajasthan) within 10 days of the publication of this order in the Official Gazette.

[F. No. 801/11/94-PITNDPS]

B. K. ARORA. Under Secy.

नई दिल्ली, 12 सितम्बर, 1995

का. आ. 2676.—केन्द्रीय सरकार, विदेशी मुद्रा विनियमन अधिनियम, 1973 (1973 का 46) की धारा 3 के खंड (ड) के साथ पठित धारा 4 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम के उपबन्धों के प्रवृत्त करने के प्रयोजनार्थ श्री पी. के. अजवानी को प्रवर्तन अधिकारी नियुक्त करती है, जिनका पदामिधान विशेष प्रवर्तन निदेशक होगा और उक्त अधिनियम की धारा 50 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उन्हें तद्धीन बनाए गए किसी नियम, निदेश या आदेश पर उसके उपबन्धों में से किसी भी उपबन्ध [धारा 13, धारा 18 की उपधारा (1) के खंड (क), धारा 18क और धारा 19 की उपधारा (1) के खंड (क) से भिन्न] के उल्लंघन के मामलों का अधिनियम करने के लिए सशक्त करती है।

[फा. सं. 174/2/95-तक. सम. (प्र.)]

एस. के. बिसवास, उप सचिव

New Delhi, the 12th September, 1995

S.O. 2676.—In exercise of the powers conferred by sub-section (1) of Section 4, read with clause (e) of Section 3 of the Foreign Exchange Regulation Act, 1973 (46 of 1973), the Central Government hereby appoints Sh. P. K. Ajwani to be an Officer of Enforcement, with the designation of Special Director of Enforcement, for the purpose of enforcing the provisions of the said Act; and in exercise of the powers conferred by Section 50 of the said Act hereby empowers him to adjudicate cases of contravention of any of the provisions thereof [other than Section 13, Clause (a) of Sub-section (1) of Section 18, Section 18A and clause (a) of Sub-section (1) of Section 19] or if any rule, direction or order made thereunder.

[F. No. 174/2/95-TC(E)]

S. K. BISWAS, Dy. Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 20 सितम्बर, 1995

का. आ. 2677.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 3 के उपखण्ड (1) के साथ पठित बैंकारी कम्पनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970 की धारा 9 की उप-धारा (3) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा श्री एम. रवीन्द्र विक्रम, 80-मारेडपल्ली (पश्चिम), सिकन्दराबाद-560026 को 20 सितम्बर, 1995 से आरम्भ होने वाली तीन वर्षों की अवधि के लिए इंडियन बैंक के बोर्ड में निदेशक के रूप में नामित करती है।

[एफ. सं. 9/39/92-बी. ओ.-1]

के. के. मंगल, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 20th September, 1995

S.O. 2677.—In exercise of the powers conferred by Clause (g) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 read with sub-clause (1) of Clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby nominates Shri M. Ravindra Vikram, 80, Marredpally (West), Secundrabad-560 026 as Director of Indian Bank for a period of three years commencing on 20th September, 1995.

[F. No. 9/39/92-B.O.]

K. K. MANGAL, Under Secy.

नई दिल्ली, 22 सितम्बर, 1995

का. आ. 2678.—रुग्ण औद्योगिक कंपनी (विशेष उपबंध) अधिनियम, 1985 की धारा 6 की उपधारा (2) के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा श्री एम. एस. दयाल, आई. ए. एस. (गुजरात : 61) को, उनके कार्यभार ग्रहण करने की तारीख से तथा 31 जनवरी, 1998 तक, औद्योगिक तथा वित्तीय पुनर्निर्माण राष्ट्रीय प्राधिकरण के सदस्य के रूप में नियुक्त करती है।

[सं. 7/14/94-बी. ओ.-1]

के. के. मंगल, अवर सचिव

New Delhi, the 22nd September, 1995

S.O. 2678.—In pursuance of the powers conferred by sub-section (1) of section 5 read with sub-section (2) of Section 6 of the Sick Industrial Companies (Special Provisions) Act, 1985, the Central Government hereby appoints Shri M. S. Dayal, IAS (GJ:61) as a Member of the Appellate Authority for Industrial and Financial Reconstruction with effect from the date of his assumption of charge of the post and upto 31st January, 1998.

[F. No. 7/14/94-BO.I]

K. K. MANGAL, Under Secy.

केन्द्रीय उत्पाद शुल्क, एवं सीमा शुल्क आयुक्तालय

नागपुर, 18 सितम्बर, 1995

का. आ. 2679.—श्री पी. के. गडकरी, अधीक्षक, समूह "ख" केन्द्रीय उत्पाद शुल्क, आयुक्तालय, नागपुर, निवर्तन की आयु प्राप्त करने पर दिनांक 31-8-95 को अपरान्ह से शासकीय सेवा से निवृत्त हुए हैं।

[फा. सं. II(3) 3/95/स्या. I/21188]

आर. जे. बेले, अपर आयुक्त
(कार्मिक एवं सतर्कता)

CUSTOMS AND CENTRAL EXCISE COMMISSIONERATE

Nagpur, the 18th September, 1995

S.O. 2679.—Shri P.K. Gadkari, Superintendent, Central Excise Group 'B' of Nagpur Commissionerate having attained the age of superannuation retired from Government service on 31-8-95 in the afternoon.

[C. No. II(3)3/95/Estt.I/21188*]

B. J. BELEY, Addl. Commissioner (P&V)

वाणिज्य मंत्रालय

आदेश

नई दिल्ली, 22 सितम्बर, 1995

का. आ. 2680.—भारत के निर्यात व्यापार के विकास के लिए प्रसंस्कृत मांस उत्पादों को निर्यात से पूर्व (क्वालिटी नियंत्रण और निरीक्षण) के अधीन लाने के लिए कतिपय प्रस्ताव निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 11 के उपनियम (ii) की अपेक्षानुसार, भारत सरकार के वाणिज्य मंत्रालय के आदेश सं. का. आ. 2425 तारीख 24 अगस्त, 1994 को भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 24 अगस्त, 1994 को प्रकाशित किए गए थे,

और ऐसे सभी व्यक्तियों से जिनके उनसे प्रभावित होने की संभावना है, उक्त आदेश के राजपत्र में प्रकाशन की

तारीख से पैंतालीस दिन की अवधि के भीतर आक्षेप और सुझाव मांगे गए थे।

और उक्त राजपत्र की प्रतियां जनता को तारीख 27-10-1994 को उपलब्ध करा दी गयी थी,

और उक्त प्रारूप पर जनता से प्राप्त आक्षेपों और सुझावों पर केन्द्रीय सरकार ने विचार कर लिया है।

अब, केन्द्रीय सरकार, निर्यात क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्यात निरीक्षण परिषद से परामर्श करने के पश्चात् यह राय होने पर कि भारत के निर्यात व्यापार के विकास के लिए ऐसा करना आवश्यक और समीचीन है :—

1. यह अधिसूचित करती है कि प्रसंस्कृत मांस उत्पाद निर्यात से पूर्व क्वालिटी नियंत्रण और निरीक्षण के अधीन होंगे।

2. क्वालिटी नियंत्रण और निरीक्षण के प्रकार को प्रसंस्कृत मांस उत्पाद निर्यात क्वालिटी नियंत्रण और निरीक्षण) नियम, 1995 के प्रावप के अनुसार ऐसे क्वालिटी नियंत्रण और निरीक्षण के प्रकार को ऐसे रूप में विनिर्दिष्ट करती है जो कि ऐसे प्रसंस्कृत मांस उत्पादों पर निर्यात से पूर्व लागू होगा।

3. इस आदेश से संलग्न अनुसूची 1 से 5 में अपवर्णित विनिर्देशों या प्रसंस्कृत मांस उत्पादों के लिए मानक विनिर्देशों के रूप में मान्यता देती है।

4. अंतर्राष्ट्रीय व्यापार के दौरान प्रसंस्कृत मांस उत्पादों के निर्यात को जब तक प्रतिषिद्ध करती है जब तक कि ऐसे प्रसंस्कृत मांस उत्पादों के पैकेजों या आधानों पर केन्द्रीय सरकार द्वारा मान्यता प्राप्त कोई ऐसा चिन्ह या सील चिपकाई या लगाई न गयी हो कि वह उसे लागू मानक विनिर्देशों के अनुरूप है और उसके साथ भारत सरकार के कृषि विपणन सलाहकार या निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 के अधीन स्थापित मा मान्यता प्राप्त किसी भी अभिकरण द्वारा या राज्य सरकार के पशुपालन निदेशालय द्वारा जारी इस आशय का प्रमाणपत्र न लगा हो कि ऐसे प्रसंस्कृत मांस उत्पाद यथास्थिति, उपरोक्त मानक विनिर्देशों या निर्यात संविदा में अनुषङ्ग के प्रतिरिक्त किन्हीं अन्य विनिर्देशों के अनुरूप हैं और निर्यात योग्य हैं।

5. यह इस आदेश को निनिर्दिष्ट करती है कि प्रभावी क्रेताओं को भू-मार्ग, जल मार्ग या वायु मार्ग द्वारा प्रसंस्कृत मांस उत्पादों के उन सर्वाधिक नमूनों के निर्यात को लागू नहीं होगी जिनका पोगे पर्यन्त निःशुल्क मूल्य पांच हजार रुपए से अधिक नहीं होगा।

स्पष्टीकरण:-

इस आदेश के प्रयोजनों के लिए "प्रसंस्कृत मांस उत्पादों" से ऐसे मांस उत्पाद अभिप्रेत हैं (ताजे, द्रुतशीतित, हिमशीतित कीमा/पिसे मांस को छोड़कर) जो मांस को क्वरिंग, धूमन, डिब्बा बंद करने, पकाने, निर्जलीकरण तथा नमक, मसालों तथा एजनाइमस को या तो अलग-अलग या मिश्रित रूप से मिलाने जैसी प्रक्रियाओं के अंतर्गत तैयार किया गया है।

अनुसूची- 1

डिब्बा बंद प्रसंस्कृत मांस उत्पादों का नमूना लेना

1. नमूना लेने की साधारण अपेक्षाएँ : (1) नमूना लेने की प्रक्रिया अभिहित अभिकरण द्वारा प्राधिकृत व्यक्ति द्वारा ही की जाएगी और विनिर्माता/निर्यातकर्ता की उपस्थिति में की जाएगी।

(2) नमूने का इस तरह से भंडारण और परिवहन किया जाए कि उत्पाद का तापमान सामान्य कक्ष के तापमान से भिन्न नहीं होगा।

2. नमूना लेने के मापदंड:—(1) एक ही माप सभी डिब्बों तथा विनिर्माता के एक ही बैच से लिए गए सभी डिब्बों वाले पारेषणों को एक साथ कर एक लाट में तैयार किया जाएगा।

(2) सामग्री को अनुसूची 2 से 4 की अपेक्षाओं के अनुसार अनुरूपता सुनिश्चित करने के लिए प्रत्येक लाट में से नमूनों का परीक्षण किया जाएगा।

(3) नमूनों की भौतिक, रसायनिक तथा सूक्ष्मजैविकी अपेक्षाओं की जांच के लिए लाट से चुने जाने वाले डिब्बों की संख्या लाट के साईज पर आधारित होगी और नीचे दी गयी सारणी के स्तम्भ (1) तथा (2) के अनुसार होगी।

सारणी-1

परीक्षण के लिये डिब्बों का चयन

लाट में डिब्बों की संख्या (एन)	चुने जाने वाले डिब्बों की संख्या (एन)
500 तक	—6
500 से 1000	—7
1001 से 5000	—8
5001 से 10000	—9
10000 से ऊपर	—10

(4) ये डिब्बे एक मुक्त चुने जायेंगे। खोले जाने वाले डिब्बों की न्यूनतम संख्या सारणी 2 के अनुसार

हो सकती है। 2.3 की अपेक्षाानुसार कम से कम 2 डिब्बों की प्रत्येक पैकिंग कैस से चुनते हुए एक मुक्त डिब्बे लिये जायेंगे।

(5) यदाकदा सुनिश्चित करने के उद्देश्य से यदाकदा संख्या सारणी को उपयोग किया जायेगा। यदि किसी मामले में सारणी उपलब्ध नहीं होती है तो निम्नलिखित प्रक्रिया अपनाई जायेगी।

(6) सभी डिब्बों को व्यवस्थित रूप से लगाया जाये और एक सिरे से शुरू किया जाये। एन/एन का मध्य भाग होने के कारण प्रत्येक आठवाँ डिब्बा लिया जायेगा जहाँ- जहाँ एन से लाट में डिब्बों की कुल संख्या से अभिप्राय है और एन से चुने जाने वाले डिब्बों की संख्या से अभिप्राय है।

सारणी 2

खोले जाने वाले पैकिंग के लिये (खंड 2,4)

लाट (एन) में पैकिंग केसिस की संख्या	खोले जाने वाले पैकिंग डिब्बों की संख्या (एन)
100 तक	—2
101 से 500	—3
501-1000	—4
1001-5000	—5
5000 से ऊपर	—6

1. परीक्षणों की संख्या—भौतिक तथा रसायनिक अपेक्षाओं के लिये चुने गये नमूनों के डिब्बों से एक प्रतिनिधी नमूना लिया जायेगा जिसकी निर्यात, हैडस्पेस, सोडियम क्लोराइड नाइट्रेट, भारी धातु तथा प्रोटीन की जांच की जायेगी।

2. सूक्ष्मजैविकी अपेक्षाओं के लिये परीक्षण—(1) 37° पर उष्मायन चुने गये डिब्बों में 2 को 37° सी पर उष्मायित किया जायेगा जो कि कम से कम 14 दिन तक होगा और सूक्ष्मजैविकी परीक्षण के अध्यधीन किया जाएगा।

(2) 55° सी पर उष्मायन किये गये डिब्बों में से अन्य 2 को 55° सी पर उष्मायित किया जायेगा और जो कि कम से कम 14 दिन तक होगा और सूक्ष्मजैविकी परीक्षण के अध्यधीन किया जायेगा।

3. अनुरूपता के लिये मानदण्ड—एक लाट को इस मानक की अपेक्षाओं को पूरा करने वाली समझा जायेगा जब सभी परीक्षण किये गये हों सभी नमूने विशेषताओं के लिये संबंधित तत्स्थानी अपेक्षाओं को पूरा करते हैं।

अनुसूची-II

कॉर्नड बीफ के लिये मानक

1. विस्तार :—यह मानक डिब्बा बन्द भैंस मांस जिसे "कॉर्नड बीफ" अभिहित किया गया है, पर लागू होता है और वायुमुक्त सीलबन्द डिब्बों में चेचे गये हैं जो मुद्रांकन के पश्चात् उस सीमा तक उष्मातापित किये गये हैं जिससे कि उत्पाद स्वतः सुरक्षित रह सकें।

यह "कॉर्नड बीफ" प्रकार के मांस उत्पाद इन विनिर्दिष्ट से विभिन्न अनिवार्य विशेषताओं सहित लागू नहीं होगा। इन उत्पादों के साथ अर्हक विवरण लगा होगा जो कि उत्पाद की सही जानकारी इस प्रकार देगा कि ग्राहक धोखे में न रहे और इस मानक के अनुसार बंद उत्पादों के संबंध में कोई शंका नहीं।

2. वर्णन :—कॉर्नड बीफ अर्थात् जीवित भैंसों का प्राप्त चाप, क्यूरेड हड्डी रहित शव मान और उमर शीर्ष मांस हृदय मांस तथा कमर से नीचे का मांस सम्मिलित किया जा सकता है।

उत्पाद भैंस के मांस के बड़े-बड़े टुकड़ों में तैयार किया जायेगा जो पहले से ही पका था ऐसे पहले से पकाये मांस का मिश्रण होगा जिसमें अधिकतम 5 कच्चा मांस जोड़ा गया है, अन्यथा मामले में आधानों में भरने से पहले या पश्चात् मांस सुरक्षित होगा।

डिब्बे को सीलबन्द करने के पश्चात् ताप उष्मायन लागू किया जायेगा। और यह सुनिश्चित करना पर्याप्त होगा कि उत्पाद स्वतः टिकाऊ है तथा जन स्वास्थ्य के लिये हानिकारक नहीं है।

3. आवश्यक संघटन तथा क्वालिटी तत्व :

(1) आवश्यक घटक :

—असुरक्षित भैंस का मांस

—सुरक्षित रखने वाले पदार्थ जिनमें खाद्य श्रेणी नमक तथा सोडियम या पोटेशियम नाइट्रेट है।

(2) वैकल्पिक घटक :

—स्कोरोज, प्रतीय शंकर, डैल्सट्रेस (ग्लूकोज, लक्टोज, माल्टोज, ग्लूकोज, शर्करा, कोर्ण शर्करा) (सम्मिलित)

—संरक्षक सब्जियां, प्रोटीन, दालें तथा स्टार्च परन्तु यह भी कि वैकल्पिक तत्वों की कुल मात्रा भार के आधार पर 50 प्रतिशत से अधिक नहीं होगी।

(3) संघटन :

अन्तिम उत्पाद में कुल प्रोटीन श्रेणी 21% भी नीचे से कम नहीं होगी।

(4) कच्ची सामग्री-मांस :

जिससे उत्पाद तैयार किया जाता है उपभोग के लिये अच्छी उचित क्वालिटी का होगा और आपत्तिजनक रंग से मुक्त होगा।

(5) अन्तिम उत्पाद :—अन्तिम उत्पाद स्वच्छ होगा तथा साथ ही धब्बों और आधान के दूषण से मुक्त होगा। मांस एक सार होगा और पूर्णतः संसाधित होगा और उत्पाद द्रुतशीतित होने पर टुकड़े करने योग्य होगा।

4. खाद्य भोज्य :

(1) परिरक्षक

अन्तिम उत्पाद के कुल श्रेण पर परिणित अधिकतम मात्रा

क. नाइट्रेट, पोटेशियम तथा सोडियम

50 मि. ग्रा. : कि. ग्रा. कुल नाइट्रेट जो सोडियम नाइट्रेट के समान न हों।

ख. पोटेशियम क्लोराइड

श्रेष्ठ विनिर्माण एकक द्वारा सीमित

(2) एंटीऑक्सीडेंट

एसकार्बिक अम्ल और इसके सोडियम नमक

श्रेष्ठ विनिर्माण एकक द्वारा सीमित

5. दूषण तत्व

अधिकतम स्तर

सीसा (बी बी) टिन (एस एन)

1 मि. ग्रा. / कि. ग्रा.

टिन (एस एन) टिन प्लेट आधान के उत्पाद के लिये

200 मि. ग्रा. / कि. ग्रा.

टिन (एस एन) अन्य आधान में उत्पाद के लिये

50 मि. ग्रा. / कि. ग्रा.

6. स्वच्छता स्वास्थ्य :—(1) स्वच्छता तथा अन्य स्वास्थ्य संबंधी अपेक्षाएं नीचे दिए गए कच्चे मांस (द्रुतशीतित या हिमशीतित) क्वालिटी नियंत्रण और निरीक्षण (नियम, 1992 के अधीन) के अनुसार होंगी।

(2) कॉर्नड बीफ तैयार करने के लिये प्रयुक्त मांस मरणोपूर्व तथा मरणोपरांत निरीक्षण किये गये पशुओं से लिया गया है या किसी निरीक्षण द्वारा अन्य मानक उपभोग के लिये पारित किया गया है। निरीक्षण द्वारा परीक्षण किए जाने के पश्चात् मांस को दूषण या प्रसंस्करण या उठाई-धोई या किसी हानिकारक पदार्थ को मिलाने के लिये खोला नहीं गया है जो कि मानक उपभोग के लिये अनुचित कर देता है।

(3) कच्चे या अर्ध प्रसंस्कृत मांस या कार्नेड बीफ को संस्थापना के भीतर इस प्रकार उठाया रखा, भण्डारित या परिवहित किया जाएगा जो कि मांस तथा कार्नेड बीफ को दूषण तथा विघटन से बचाएगा।

(4) उत्पाद को संयुद्धित सीलबन्द आधानों में पैक किया जाएगा ताकि दूषण न हो सके और जो साफ होंगे तथा मजबूत आधान की विशेषता को दिखाएंगे तथा निर्यात के साक्ष्य को दिखाएंगे।

(5) जब प्रसंस्कृत आधानों को, जल में ठण्डा किया जाएगा तो पेय जल होगा या इस भांति उपयोग किया जाएगा जिससे जन स्वास्थ्य को हानि न हो।

(6) प्रसंस्करण के पश्चात् डिब्बों को दूषण से बचाने के लिए अच्छी तरह उठाई धराई की जाएगी।

7. लेबल लगाना :—(1) खाद्य का नाम लेबल पर घोषित किए जाने वाले खाद्य उत्पाद का नाम “कार्नेड बीफ” होगा।

(2) संघटकों की सूची :—संघटकों की एक पूरी सूची उत्पाद के अवरोही क्रम से लेबल पर घोषित की जाएगी और सभी संघटकों के लिए एक विशेष नाम का प्रयोग किया जाएगा।

(3) तारीख, चिन्हंकन तथा भण्डारण निरीक्षण :—डिब्बा बन्द कार्नेड बीफ के लिए जो कि स्थतः टिकाऊ उत्पाद है, न्यूनतम टिकाऊपन तारीख वर्ष में उपदर्शित की जाएगी।

(4) गैर खुदरा डिब्बों पर लेबल लगाना :—खुदरा डिब्बों पर लेबल लगाने के लिए आवश्यक उचित सूचना या तो गैर खुदरा डिब्बों पर या उसमें रखे वस्तुओं पर दी गई है सिवाय इसके कि केवल खाद्य वस्तु का नाम, तारीख, चिन्हंकन तथा भण्डारण निर्देश, लॉट पहचान तथा विनिर्माता या पैकरो या पैकर का नाम तथा पता खुदरा डिब्बों पर ही होगा। तथापि, लॉट पहचान तथा विनिर्माता या पैकर का नाम तथा पता पहचान चिन्ह में बदला जा सकता है परन्तु यह कि ऐसा चिन्ह उसमें रखे वस्तुओं से स्पष्ट रूप से एक समान है।

(5) कुल अन्तःवस्तु :—भार के आधार पर कुल अन्तःवस्तु या तो मीट्रिक पद्धति में (अन्तर्राष्ट्रीय पद्धति) यूनिटों में या माप की दोनों प्रणालियों में जैसा भी उस देश द्वारा अपेक्षित हो जिसे माल बेचा जा रहा है घोषित की जाएगी।

(6) नाम तथा पता :—विनिर्माता/पैकर का नाम तथा पता घोषित किया जाएगा परन्तु वह पहचान चिन्ह से बहला जा सकता है नहीं ऐसा चिन्ह मूल देश द्वारा जारी किया गया हो।

(7) उद्भव का देश :—उत्पाद का उद्भव वाला देश स्पष्ट रूप से घोषित किया जाएगा। जिस देश में प्रसंस्करण किया गया हो उसे लेबल लगाने के प्रयोजन के लिए उद्भव का देश माना जाएगा।

अनुसूची --III

संचयन मांस के लिए मानक

1. विस्तार :—यह मानक “संचयन मांस” से नाम निर्दिष्ट उत्पाद पर लागू होता है जो कि किसी भी उपयुक्त पैकिंग सामग्री में पैक किया गया है। वर्णन उत्पाद पोट्टी के मांस या उसके मिश्रण से तैयार किया जाएगा जो अवधूत और सुरक्षित और जिसे धुएँ से पकाया जा सका हो। उत्पाद में बिन्दर हो भोसकता है और नहीं भी।

2. उष्मा तापमान :—जिसके अधीन उत्पाद किया गया हो और संसाधन तथा पैकिंग का प्रकार यह सुनिश्चित करने के लिए पर्याप्त होगा कि उत्पाद में कोई स्वास्थ्य हानिकारक पदार्थ नहीं है और भण्डारण, परिवहन तथा विक्रय की दशा में जैसा कि उपधारा 6.4 में दर्शाया गया है, सही रहेगा।

3. आवश्यक सम्मिश्रण तथा क्वालिटी तत्व अंश :—

(1) आवश्यक संघटक :—

—मांस या पोट्टी मांस या इनका सम्मिश्रण
—पानी

—निदानात्मक संघटक जिसमें खाद्य श्रेणी नमक (सोडियम क्लोराइड तथा पोटाशियम या सोडियम नाईट्रेट) होगा।

(2) वैकल्पिक संघटक :

—खाद्य ओफाल, वसा परसी संसाधित और असंसाधित शुकर मांस फाइडीज।

—निम्न प्रकार के कार्बोहाइड्रेट और प्रोटीन

—आहार आटा या पोणी से तैयार स्टार्च या मीठा आलू

—ब्रेड, बिस्कुट या बेकरी उत्पाद

—दुग्ध पाउडर, मलाई दुग्ध पाउडर, मक्खन दुग्ध पाउडर केसिनेट ब्रे पाउडर अंडा, प्रोटीन, सख्खी बिगेटा ली प्रोटीन, मूंगफली प्रोटीन ड्राई रकन उत्पाद, सोया आटा, सोया प्रोटीन, गैहू ग्लूकोन ल्यूमिन आहार, सूरजमुखी आहार।

—सुग्गेज, आवश्यक शर्करा, डेक्टोज (ग्लूकोस)

—लेक्टोज, माल्टोस, ग्लूकोज सीरप (जिसमें कार्ने सीरप भी है)

—मसाले, परिपक्वन, और मसाला

—हाइड्रोलिज्ड प्रोटीन।

(3) सम्मिश्रण	बाईंडर के साथ उत्पाद	बिना बाईंडर के उत्पाद और ओफाब लेकिन उसमें दिल, जिह्वा या शीघे मांस सम्मिलित हो सकेगा।
न्यूनतम भीतर जाने वाले मांस के अंश	80%	90%
अधिकतम बसा अंश	35%	30%

(4) आवश्यक क्वालिटी अंश :—

- (i) कच्ची सामग्री:—सघटक जिनसे उत्पाद तैयार किया जाता है उत्तम क्वालिटी के होंगे जो कि मालव उपयोग के लिए उचित होंगे और आपत्तिजनक गंध से मुक्त होंगे।
- (ii) अन्तिम उत्पाद :—उत्पाद बिल्कुल साफ होगा तथा धब्बों और आध्रानों के दूषण से मुक्त होगा। मांस तथा पोल्डी मांस एक समान तथा पूर्णतः संसाधित होगा और उत्पाद ऐसा होगा जिसके टुकड़े किए जा सकें।

4. योग्य खाद्य

(1) परिरक्षक

नाइट्रेट पोटेशियम और/प्रवेश मात्रा 200 मि.ग्रा./या सोडियम नमक कि.ग्रा., कुल नाइट्रेट जिन्हें सोडियम के रूप में अभिव्यक्त किया गया अंतिम उत्पादों के कुल शुद्ध अंश के आधार पर संगणित अधिकतम लेखल

नाइट्रेट पोटेशियम और/या सोडियम नमक 125 मि.ग्रा./कि.ग्रा. नाइट्रेट जिन्हें सोडियम नाइट्रेट के रूप में अभिव्यक्त किया गया।

पोटेशियम क्लोराइड उपयुक्त विनिर्माण व्यवहार द्वारा सीमित।

(2) प्रति आक्सीकारक

एसकार्बिक अम्ल उपयुक्त विनिर्माण व्यवहार द्वारा सीमित
सोडियम नमक आर्सेसी
एसकार्बिक एसिड और सोडियम नमक

(3) सुरक्षिकारक

प्राकृतिक सुरक्षिकारक पदार्थ और प्राकृतिक तद्रूप सुरक्षिकारक पदार्थ उपयुक्त विनिर्माण व्यवहार द्वारा सीमित

(4) सुरक्षिकारक वर्धक

5 शुभ्रानीलेट, डायसोडियम 5 आइसोसलेट डायसोडियम उपयुक्त विनिर्माण व्यवहार द्वारा सीमित।

(5) अम्ल विनियामक

ग्लूकोन-डेहट-लैक्टोन उपयुक्त विनिर्माण व्यवहार द्वारा सीमित

(6) जल प्रतिधारण अभिकर्मक

फासफेट (प्राकृतिक 8000 मि.ग्रा./कि.ग्रा. (पी₂ रूप में विद्यमान तथा ओ₅ के रूप में अभिव्यक्त। मिलाया गया)
मिलाया गया फासफेट 390 मि.ग्रा./कि.ग्रा.) पी (मोनोडाई तथा पोली) 2.5 के रूप में अभिव्यक्त सोडियम तथा पोटेशियम नमक

(7) रंग

इरोयरोसिन (सीआई 45430) रंग में कमी को पूरा करने के लिए बदलना केवल बाईंडर सहित उत्पाद के लिए)

5. संदूषण

अधिकतम स्तर

सीसा (पीबी) 0.5 मि.ग्रा./कि.ग्रा.

टिन (एसएन)

टिन (एसएन) 200 मि.ग्रा./कि.ग्रा.

टिन प्लेट आध्रानों में उत्पादों के लिए

टिन (एसएन) अन्य 50 मि.ग्रा./कि.ग्रा.

आध्रानों के उत्पाद के लिए।

6. स्वच्छता :—स्वच्छता तथा अन्य स्वास्थ्य संबंधी अपेक्षाएं कच्चे मांस (द्रुतशीतिल या हिमशीतिल) (क्वालिटी नियंत्रण और निरीक्षण) नियम 1992 के अंतर्गत दिए गए अनुपालन में होंगी।

(2) कोई भी मांस जिसके अंतर्गत पोल्डी मांस और उनके उत्पाद भी हैं किसी संस्था द्वारा तब तक स्वीकृत नहीं किया जाएगा जब तक कि उक्त जानवरों का जिनसे मांस तथा मांस उत्पाद लिए गए हैं मरणोपूर्व तथा मरणोपरांत निरीक्षण न किया गया हो। उनको जब तक स्वीकार नहीं किया जाएगा जब तक कि उन पर कोई ब्रांड या चिन्ह न लगा हो और मशीन तरह में मानव उपभोग के लिए सही होंगे और जब तक उनको डेपेक्टर द्वारा यह जांच न कर ली गयी हो कि संदूषण भ्रूषण है या प्रसंस्करण या उठाई-थराई में या कोई अन्य क्षतिकारक वस्तु उनमें न मिला दिया गया हो जो मानव उपभोग के लिए अनुपयुक्त हो।

(3) मांस को जिसके अंतर्गत कुकट मांस और उनके उत्पाद भी हैं किसी संस्था में इस रीति में भण्डारित किया जाएगा। उसका परिवहन किया जाएगा जो मांस तथा मांस उत्पादों को संदूषण और क्षय होने से सुरक्षित करें।

(4) ऐसे उत्पादों को जिनको पैकेजिंग के पश्चात् उपभोगधारित किया जाता है। वायु रुद्ध रूप के सीलबन्ध आध्रानों में पैक किया जाएगा जिससे कि उनमें स्वास्थ्य

के लिए कोई परिसंकट मौजूद न हो या लेबल पर उपदर्शित धालने भण्डारण परिवहन और विक्रय संदूषण न आने पाए। आधान साफ होंगे और उनमें ठोस आधानों के लक्षण संबंधी दशाओं में होंगे और जहां आधानों के प्रकार को होगा वहां निर्वान का संकेत दर्शित होगा।

(5) ऐसे उत्पादों को जिनको पैकेजिंग से पूर्व उपभोक्ता-धारित किया जाता है इस प्रकार से पैक किया जाएगा कि संदूषण को कम से कम रखा जाना जिसमें कि उत्पाद खराब होने से बच सके और लेबल पर उपदर्शित हथालने भण्डार-करण परिवहन और आधानों में स्वास्थ्य के लिए कोई विक्रय संबंधी दशाओं में लोक स्वास्थ्य के लिए कोई परिसंकट न हो सके। परिसंकट न मौजूद होगा न ही हथालने की दशाओं में संदूषण आने पाएगा। वे साफ होंगे और जहां लागू हो उनमें निर्वान का संकेत दर्शित होगा।

(6) जब प्रसंस्कृत आधानों को पानी में छुड़ा किया जाता है तो पानी पेय क्वालिटी का होगा या अच्छी उपयुक्त रूप से संसाधित किया हुआ होगा ताकि लोक स्वास्थ्य को परिसंकट में ना डाल सके।

(7) अन्तिम उत्पाद को ऐसी रीति से हथाला जाएगा और भण्डारित किया जाएगा जिसमें कि उत्पाद को संदूषण से बचाया जा सके।

7. लेबल लगाना :

(1) खाद्य का नाम : लेबल पर घोषित किया जाने वाला उत्पाद का नाम "लैच मांस" होगा।

बाईंडरों और खाद्य मांसोच्छिष्ट की उपस्थिति की घोषणा उस पशु की जाति, कुक्कुट मांस या दोनों का मिश्रण प्राप्त किया गया है उपदर्शित करने हुए दी जाएगी, यदि उनके लोप से उपभोक्ता को भ्रम पैदा होता है।

(2) संघटकों की सूची : अवरोही क्रम या अनुपात में लेबल पर संघटकों की पूर्ण सूची घोषित की जाएगी सिवाय उन विनिर्दिष्ट नामों के, जिनका एम बालिक अम्ल आइसो-एसकाबिक अम्ल और उनके सोडियम लवणों तथा नाइट्रेट (पोटाशियम और सोडियम) के लिए प्रयोग किया जाएगा और मिलाए गए फासफेट को बर्ग नाम "फॉस्फेट्स" घोषित किया जा सकेगा।

संघटकों की सूची में उन पशुओं की जाति, जिनमें मांस, कुक्कुट मांस या दोनों का मिश्रण प्राप्त किया गया है, उपदर्शित की जाएगी।

(3) तारीख अंकन और भण्डारकरण अनुदेश :—

(i) शेल्फ टिकाऊ उत्पादों के लिए न्यूनतम टिकाऊपन की तारीख, वर्ष घोषित की जाएगी।

(ii) ऐसे उत्पादों के लिए, जो शेल्फ टिकाऊ नहीं हैं अर्थात् उनके बारे में यह संभावना है कि उन्हें भण्डारकरण और विक्रय की सामान्य पूर्ण रूप से

दशाओं में कम से कम 18 मास तक नहीं रखा जा सकता है और जिन्हें ऐसे आधानों में पैक किया गया है जो उपभोक्ता को देने के लिए या खानपान के प्रयोजनों के लिए तैयार हैं, न्यूनतम टिकाऊपन की तारीख, दिन, मास और वर्ष में घोषित की जाएगी।

(iii) ऐसे उत्पादों के लिए जो शेल्फ टिकाऊ नहीं हैं और ऐसे आधानों में पैक हैं जो सीधे उपभोक्ता को या खानपान प्रयोजनों के लिए विक्रय नहीं किए जाते हैं, पर्याप्त भण्डारकरण और वितरण अनुदेश घोषित किए जाएंगे।

(4) खुदरा इतर आधानों पर लेबल लगाना :—खुदरा आधानों पर लेबल लगाने के लिए आवश्यक समुचित सूचना या तो खुदरा इतर आधानों पर या उनसे संलग्न दस्तावेजों पर दी गई है, सिवाय इसके की खाद्य का नाम, तारीख अंकन और भण्डारकरण अनुदेश, लॉट पहचान तथा विनिर्माता या पैकर का नाम और पता खुदरा इतर आधान पर होगा। तथापि पहचान चिन्ह के स्थान पर लॉट पहचान तथा विनिर्माता या पैकर का नाम और पता दिया जा सकता है परन्तु यह तब जब कि ऐसा चिन्ह उसमें संलग्न दस्तावेजों में स्पष्ट रूप से पहचान योग्य हो।

(5) शुद्ध अंतर्वस्तु :—शुद्ध अंतर्वस्तु भारत के आधार पर या तां मीट्रिक पद्धति (अन्तर्राष्ट्रीय पद्धति) यूनिटों में या एवोपन्ड्रिस या माप की दोनों पद्धतियों में, जो उस देश द्वारा जहां माल का विक्रय किया जाता है अपेक्षित हो।

(6) नाम और पता :—विनिर्माता/पैकर का नाम और पता घोषित किया जाएगा, परन्तु वह तब जब कि वह, पहचान चिन्ह के स्थान पर रखा जा सकता है, जहां वह ऐसा पहचान चिन्ह हो जो उद्भव के देश द्वारा जारी किया गया हो।

(7) उद्भव का देश :—उद्भव का देश स्पष्ट शब्दों में घोषित किया जाएगा वह देश जिसमें प्रसंस्करण किया है, लेबल लगाने के प्रयोजन के लिए उद्भव का देश माना जाएगा।

अनुसूची—IV

पकाए संसाधित फटे मांस के लिए मानक

1. विस्तार :—यह मानक "फटे मांस" के रूप में अभिहित उत्पादों को लागू होता है जिन्हें किसी उपयुक्त पैकेजिंग सामग्री में पैक किया गया है।

2. वर्णन :—यह उत्पाद मांस या कुक्कुट मांस या उनके मिश्रण से तैयार किया जाएगा जिस संसाधित किया गया है और धूप से पकाया गया है। प्रयुक्त मांस के कम से कम 50 प्रतिशत स्थूल टुकड़े हैं जो व्यास में 8 मि.मी. से अत्यंत छिद्रों द्वारा मांस भुज के समतल्य है। कोई भी टुकड़ा किसी एक आकार में 15 मि.मी. से बड़ा नहीं होगा।

उत्पाद में बाईंडर हो भी सकते हैं या नहीं भी हो सकते हैं उष्मोपचार जिसके अधीन उत्पाद को रखा गया है और संसाधन तथा पैकेजिंग का प्रकार यह सुनिश्चित करने के लिए प्रयाप्त होगा कि उत्पाद में कोई लोक स्वास्थ्य के लिए कोई परिसंकटमय पदार्थ नहीं है और वह भण्डारकरण परिवहन तथा विपणन की दशाओं में, जैसा कि पैरा 6.4 तथा 6.5 में उपबोधित किया गया है स्वास्थ्यप्रद रहता है।

3. आवश्यक समिश्रण और क्वालिटी कारक—(1) आवश्यक संघटक :—

- मांस का कुक्कुट मांस या दोनों का मिश्रण।
- जल
- संसाधित संघटकों में खाद्य ग्रेड नमक (सोडियम क्लोराइड) और पोटेशियम या सोडियम नाइट्रेट होगा।
- (2) वैकल्पिक संघटक
- खाद्य ओफल वसा कुक्कुट मांस
- निम्न प्रकार के कार्बोहाइड्रेट और प्रोटीन बाईंडर
- आहार, आटा या फेन आलू या मीठे आलू से तैयार किया गया स्टार्च
- ग्रेड, बिस्कुट या शेकरी उत्पाद
- दुग्ध चूर्ण, मखनिया दूध चूर्ण केसनेट, ठंडे चूर्ण, अंडा प्रोटीन, शुष्क रक्त उत्पाद साग सब्जी प्रोटीन उत्पाद,
- सुक्रोस, आवश्यककर्करा, ड्रेक्सट्रोस (ग्लूकोज) लैक्टोल, माल्टोस, ग्लूकोज मिरप (जिसके अंतर्गत कार्न सिरप भी है)।
- हाइड्रोलीज्ड प्रोटीन

(3) समिश्रण	बाईंडर के माप उत्पाद	बिना बाईंडर के उत्पाद और खाद्य ओफल (किन्तु उसके अंतर्गत दूध पिलाने वाले जानवरों का दिल, जिक्हा या सिर मांस भी है)
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— न्यूनतम भीतर जाने वाले मांस के अंश	80%	90%
— अधिकतम वसा अंश	30%	25%

(4) आवश्यक क्वालिटी तत्व :

(i) कच्ची सामग्री :—ये संघटक, जिनसे उत्पाद तैयार किया जाता है, ऐसी क्वालिटी के होंगे जो मानव उपभोग के

लिए उपयुक्त हों और आपत्तिजनक गंध और सुरक्षिकारक से मुक्त होंगे।

(2) अन्तिम उत्पाद :—उत्पाद साफ होगा और पर्याप्त रूप से अभिरंजन और आधानों के मंदूपण से मुक्त होगा। मांस और कुक्कुट मांस एक समान रूप से और पूर्णतः संसाधित होगा और उत्पाद ऐसा होगा जिसका टुकड़ा किया जा सके।

योज्य खाद्य	प्रवेश मात्रा
1	2
नाइट्रेट पोटेशियम और/या सोडियम नमक	200 मि.ग्रा./कि.ग्रा. कुल नाइट्रेट, जिन्हें सोडियम नाइट्रेट के रूप में अभिव्यक्त किया गया है। अन्तिम उत्पादों के कुल शुद्ध अंश के आधार पर संगणित अधिकतम लेबल
नाइट्रेट पोटेशियम और/या सोडियम नमक	125 मि.ग्रा./कि.ग्रा. कुल नाइट्रेट जिन्हें सोडियम नाइट्रेट के रूप में अभिव्यक्त किया गया है।
पोटेशियम क्लोराइड	उपयुक्त विनिर्माण व्यवहार द्वारा सीमित।
(2) प्रति आक्सीकारक	अधिकतम स्तर कुल शुद्ध अंश या अन्तिम उत्पाद पर संगणित
ससकानिक अम्ल और सोडियम नमक आईओएसकालिस अम्ल और सोडियम नमक	उपयुक्त विनिर्माण व्यवहार द्वारा सीमित
(3) सुरक्षिकारक सुरक्षिकारक प्राकृतिक पदार्थ और प्राकृतिक तद्रूप सुरक्षिकारक पदार्थ	उपयुक्त विनिर्माण व्यवहार द्वारा सीमित।
(4) सुरक्षिकारक वर्धक 5 गुआलीनेट डाइ सोडियम 5 आईनोसिनेट डायसोडियम	उपयुक्त विनिर्माण व्यवहार द्वारा सीमित
(5) अम्लता विनियामक ग्लूकोनोईड लैक्टोन सोडियम साइट्रेट	उपयुक्त विनिर्माण व्यवहार द्वारा सीमित

(1)

(2)

(6) जल प्रतिधारण अभिकर्मक

फास्फेट (प्राकृतिक रूप से विद्यमान और मिलाया गया) 8000 मि. ग्रा./कि. ग्रा. (पी 2°5 के रूप में अभिव्यक्त)

मिलाया गया फास्फेट (मोनोडाई और पोली सोडियम और पोटा-शियम नमक) एकल या सम्मिश्रण रूप में 3000 मि. ग्रा./कि. ग्रा. (पी 2°5 के रूप में अभिव्यक्त)

(7) रंग

रायरोलिन सीग्राई 15 मि. ग्रा./कि. ग्रा.
45430 रंग की कमी को पूरा करने के लिए बदलना (केवल बाईंडर उत्पाद के लिए)

(5) संदूषण

अधिकतम स्तर

सीसा (पीबी) 0.5 मिलीग्राम/किलोग्राम टिन (एसएन) टिन (एसएन) टिन 200 मिलीग्राम/किलोग्राम प्लेट आधान में उत्पादों के लिए।

टिन (एसएन) अन्य 50 मिली ग्राम/किलोग्राम आधानों में उत्पाद के लिए

6. स्वच्छता:—(1) अनुपालन की जाने वाली स्वच्छता और अन्य स्वच्छता संबंधी अपेक्षाएँ वे हैं जो कच्चे मांस (दुग्धशीतित या हिमशीतित) क्वालिटी नियंत्रण और निरीक्षण नियम, 1992 के अधीन दी गयी है।

(2) कोई भी मांस जिसके अन्तर्गत कुक्कुट मांस और उनके उत्पाद भी हैं किसी स्थापन द्वारा तक यह स्वीकृत नहीं किया जाएगा जब तक कि मांस या मांस उत्पाद ऐसे पशुओं से न लिए गए हों जो मरणोपूर्व और मरणोपरान्त निरीक्षण के अधीन हों। उन्हें जब तक स्वीकार नहीं किया जाएगा जब तक कि उन पर उचित रूप से ब्राण्ड या चिन्ह न लगा हो और सभी तरह से मानव उपयोग के उपयुक्त न हों। और उन्हें उनकी निरीक्षक द्वारा जांच की जाने के पश्चात् संदूषण के लिए आरक्षित न छोड़ा गया हो, या प्रसंस्करण न किया गया हो या हथालने से या कोई हानिकारक पदार्थ उसमें मिलाने से मानव उपभोग के लिए अनुपयुक्त हो जाता है।

(3) मांस को जिसके अन्तर्गत कुक्कुट मांस और उनके उत्पाद भी हैं किसी स्थापन में ऐसी रीति से हटाला जाएगा, भण्डारित किया जाएगा या उसका परिवहन किया जाएगा जो मांस और मांस उत्पादों की संदूषण और क्षय से रक्षा करें।

(4) ऐसे उत्पादों को जिनको पैकेजिंग के पश्चात् उपभोगाहित किया जाता है ऐसे वायुरक्ष सीलबन्द आधानों में पैक किया जाएगा जिससे कि उनमें मौजूदा स्वास्थ्य के लिए कोई परिसंकट न हो या लेबल पर उपदर्शित हथालने, भण्डारकरण, परिवहन और विक्रय की दशाओं में संदूषण न भ्राने पाए। आधान साफ होंगे और उनमें ठोस आधान के लक्षण दर्शित होंगे और जहाँ आधानों के प्रकार को लागू हो वहाँ निर्वारित का संकेत दर्शित होगा।

(5) ऐसे उत्पादों को जिनको पैकेजिंग से पूर्व उपभोग-आरित किया जाता है, इस प्रकार से पैक किया जाएगा कि संदूषण को कम से कम रखा जा सके जिससे कि उत्पाद खराब होने से बच सके और लेबल पर उपदर्शित हथालने भण्डारण, परिवहन तथा विक्रय संबंधी दशाओं में लोक स्वास्थ्य के लिए कोई परिसंकट मौजूद न हो सके। आधानों में स्वास्थ्य के लिए कोई परिसंकटमय मौजूद होगा नहीं, हथालने की सामान्य दशाओं में संदूषण भ्राने पाएगा। वे साफ होंगे, जहाँ लागू हो उसमें निर्वारित का संकेत दर्शित होगा।

(6) जब प्रसंस्कृत आधानों को पानी में ठण्डा किया जाता है तो पानी पेय क्वालिटी का होगा या उपयुक्त रूप से संसाधित किया हुआ होगा जो कि स्वास्थ्य को परिसंकट में न डालें।

(7) अन्तिम उत्पाद को ऐसी रीति से हथाला जाएगा और भण्डारित किया जाएगा जिससे कि उत्पाद को संदूषण से बचाया जा सके।

7. लेबल लगाना:—(1) खाद्य का नाम:—लेबल पर घोषित किया जाने वाला खाद्य का नाम "कटे मांस" होगा। सिवाय इसके कि "मांस" शब्द के स्थान पर ऐसा शब्द रखा जा सकता है जो प्रयुक्त मांस के प्रकार का वर्णन करें या मांस की एक किस्म से अधिक किस्मों का प्रयोग किया गया है। कटे शूकर मांस, कटे कुक्कुट मांस, और बीफ के उत्पादों के नाम अवरोधी क्रम में अनुपात से।

अर्थात् बाईंडरों और खाद्य मांसविष्टी की उपस्थिति की घोषणा और एक घोषणा उस पशु की जाति जिससे मांस, कुक्कुट मांस या दोनों का मिश्रण प्राप्त किया गया है उपदर्शित करते हुए दी जाएगी, यदि उनके लोप से उपभोक्ता को भ्रम पैदा होता है।

(2) सबटर्कों की सूची:—सबटर्कों की सूची में उन पशुओं की जाति जिनसे मांस, कुक्कुट मांस या दोनों का मिश्रण प्राप्त किया जाता है उपदर्शित की जाएगी।

(3) तारीख अकन और भण्डारकरण अनुदश:—शेल्फ टिकाऊ उत्पादों के लिए न्यूनतम टिकाऊपन की तारीख, वर्ष में घोषित की जाएगी। ऐसे उन उत्पादों के लिए जो शेल्फ टिकाऊ नहीं हैं अर्थात् उनके बारे में यह संभावना है कि उन्हें भण्डारकरण और विक्रय की सामान्य दशाओं में से कम 18 मास तक नहीं रखा जा सकता है और जिन्हें ऐसे आधानों

में पैक किया गया है जो उपभोक्ता को देने के लिए या खानपान के प्रयोजनों के लिए तैयार है, न्यूनतम टिकाऊपन की तारीख, दिन, मास और वर्ष में घोषित किया जाएगा। ऐसे उत्पादों के लिए जो शेल्फ टिकाऊ नहीं है और आधानों में पैक है जो सीधे उपभोक्ता को या खानपान की प्रयोजनों के लिए विक्रय नहीं किए जाते हैं पर्याप्त भण्डारकरण अनुदेश घोषित किए जाएंगे।

(4) खुदरा इतर डिब्बों पर लेबल लगाना :—खुदरा आधानों पर लेबल लगाने के लिए आवश्यक समुचित सूचना या तो खुदरा इतर आधानों पर या उसमें संलग्न दस्तावेजों पर दी गई है सिवाय इसके कि खाद्य वस्तु का नाम, तारीख अंकन और भण्डारण आदेश, लॉट पहचान तथा विनिर्माता या पैकेटों या पैकर का नाम और पता खुदरा-इतर आधानों पर होगी। तथापि पहचान चिन्ह के स्थान पर लॉट पहचान तथा विनिर्माता या पैकर का नाम और पता दिया जा सकता है। परन्तु यह तब जब कि ऐसा चिन्ह उनसे संलग्न दस्तावेजों से स्पष्ट रूप से पहचान योग्य हो।

(5) शुद्ध अन्तर्वस्तु :—शुद्ध अन्तर्वस्तु भार के आधार पर वस्तु या तो मीट्रिक पद्धति में (अन्तर्राष्ट्रीय पद्धति) यूनिटों में या एवायरड्रूपिस में या माप की दोनों पद्धतियों में, जो उस देश द्वारा जहाँ से माल विक्रय किया जा रहा है अपेक्षित हो।

(6) नाम और पता :—विनिर्माता/पैकर का नाम और पता घोषित किया जाएगा, परन्तु यह कि वह, पहचान चिन्ह के स्थान पर रखा जा सकता है, जहाँ वह ऐसा पहचान चिन्ह हो जो उदभव के देश द्वारा जारी किया गया हो।

(7) उदभव का देश :—उत्पाद का उदभव देश स्पष्ट शब्दों में घोषित किया जाएगा। वह देश जिसमें प्रसंस्करण किया गया है, लेबल लगाने के प्रयोजन के लिए उदभव का देश माना जाएगा।

अनुसूची - V

ऐसे अनुमोदित कसाईखाने के लिए, जो भा. मा. 4393—1979 के अनुरूप नहीं है न्यूनतम अपेक्षाएं

1. सामान्य :—अनुसूची में उपर्युक्त अपेक्षाएं सभी अनुमोदित लोक कसाईखानों/बूचड़खानों में सरकार नागरिक अभिकरणों द्वारा उपलब्ध कराई जाएगी।

2. अभिन्यास :—कसाईखाने/बूचड़खाने में निम्नलिखित आवश्यक सुविधाएं होंगी :—

(क) पशुओं का वध करने से पहले उनके लिए सुस्ताने का स्थान,

(ख) वध से पूर्व निरीक्षण करने के लिए पर्याप्त सुविधाएं,

(ग) वध के माननीय तरीके,

(घ) शवों की खाल उतारना, उनकी कांटछांट करना और धोना,

(ङ.) शवों को टांगना और खाद्य झोंछड़े,

(च) उत्पादों को हलालना,

(छ) मांस का निरीक्षण और मानव उपभोग के लिए अनुपयुक्त मांस कर निपटान,

(ज) बीमार/रोगग्रस्त पशुओं के लिए अलग बार्ड,

(झ) पर्याप्त जल प्रदाय।

3. कसाईखाने में एकक :—कसाई खाने में निम्नलिखित एकक होंगे :—

(क) प्राप्ति क्षेत्र या विश्राम स्थल,

(ख) विश्रामिकाएं,

(ग) वधशाला हाल,

(घ) अनुषंगी स्थान,

(ङ) प्रशीतित कक्ष (वैकल्पिक)

3.1 वधशाला हाल :—

3.1.1 हलाल, झटका और यहूदी पद्धतियों के अनुसार पशुओं का वध, कांटछांट करने के लिए जहाँ-जहाँ अपेक्षित हो पृथक-पृथक व्यवस्थाएं की जाएंगी।

(क) भेड़ और बकरे,

(ख) बड़े पशु।

3.1.2 इस प्रकार उपलब्ध वधशाला हाल और अनुषंगी स्थान पृथक-पृथक होंगे।

3.1.3 पशुओं को संज्ञाहीन करने (जहाँ लागू हो, रक्तस्राव और शवों की कांटछांट करने) के लिए पृथक-पृथक स्थानों की व्यवस्था की जाएगी।

3.1.4 यथोचित आकार के ढलवां रक्तस्राव क्षेत्र की व्यवस्था की जानी चाहिए।

3.1.5 शवों की कांट-छांट फर्श पर नहीं की जानी चाहिए।

3.1.6 वध किए गए विभिन्न प्रकार के पशुओं की आंतड़ी का निरीक्षण करने के लिए पर्याप्त स्थान तथा उपयुक्त और समुचित अवस्थित सुविधाओं की व्यवस्था की जाएगी।

3.1.7 शवों की धुलाई बक ढलवां और पृथक रूप से सूखा क्षेत्र या पर्याप्त आकार का फर्श की नाली की ओर ढलवां क्षेत्र।

3.2 अनुषंगी स्थान

3.2.1 उद्गर और आंतों को खाली करने और उनकी सफाई के लिए एक पृथक कक्ष और टांगने के लिए स्थान की व्यवस्था की जाएगी।

3.2.2 ऐसे मांस को अलग करने के लिए उनकी पशु चिकित्सक द्वारा किसी उपयुक्त प्रयोगशाला में और परीक्षा की अपेक्षा है उपयुक्त और पर्याप्त स्थान कसाईखाने के परिसर के भीतर व्यवस्था की जाएगी।

3.2.3 ऐसे मांस को अलग करने के लिए जिनकी पशु चिकित्सक द्वारा और परीक्षा की अपेक्षा है उपयुक्त और पर्याप्त सुविधाओं की व्यवस्था की जाएगी।

3.2.4 मानव उपभोग के लिए अनुपयुक्त और दूषित मांस को रखने के लिए उपयुक्त और पर्याप्त स्थान की व्यवस्था की जाएगी और उन्हें पृथक रूप से ताला बन्द किया जाएगा।

3.3 प्रशीतित कक्ष :

3.3.1 वह वैकल्पिक होगा किन्तु जहां प्रसंस्करण संयंत्र उचित यावा दूरी पर अवस्थित नहीं है वहां यह अपेक्षित होगा।

3.3.2 यदि टांगने वाला हाल, वातानुकूलित है तो उसका तापमान 10 में. ग्रे. से अधिक नहीं होना चाहिए दो प्रतिधारक कम्पार्टमेंट को जो जंग रोधी निर्दिष्ट माप वाले तार या विस्तारित धातु भाग से बने होंगे जिनका विस्तार भूतल से छत तक लगभग 75 मि.मी. होगा, की व्यवस्था की जाएगी।

4. शवों के लिए छुड़े:—शवों को टांगने के लिए उपयुक्त जंगरोधी धातु या गाल्वनीकृत मृदु चन्दर की हुक वाली छड़ों की व्यवस्था की जाएगी और उसी प्रकार कलेजी के लिए ऐसी व्यवस्था की जाएगी, जिससे कि श्वाध वायु का परिसंचरण हो सके। हुकों को उपयुक्त रूप से साफ और नियमित रूप से निर्जीवाणुकृत किया जाएगा।

5. सिविल निर्माण

5.1 वध पूर्व परीक्षा और बाडा क्षेत्र:—यह क्षेत्र हुब या ईट द्वारा अभेद्य सामग्री जैसे कंकरीट अफिसलन हरिंगबोन प्रकार की सामग्री से जो टूट-फूट को सहन करने के लिए उपयुक्त हो तैयार किया जाएगा और उसमें जल निकास की उपयुक्त सुविधाएं होंगी। बाडा अधिमानतः आच्छादित किया हुआ होना चाहिए।

5.2 यानीय यातायात के लिए क्षेत्र:—कंकरीट से तैयार क्षेत्र, भवन में जल निकास की समुचित सुविधाएं लदाई डाक या पशुधन प्लेटफार्म की व्यवस्था ऐसे स्थानों में की जाएगी जहां यानों की लदाई या उतराई की जाती है। पशुओं को डोने वाले ट्रकों के लिए प्रेसर धलाई जैटों और विसक्रामण सुविधाओं की व्यवस्था की जानी चाहिए।

5.3 जल निकास:—फर्श के सभी भाग जहां गीली सक्रियाएं की जाती हैं भली भांति जल निकासित होने चाहिए

यह महत्वपूर्ण है कि जल निकास के लिए फर्श का ढलान ऐसे किन्हीं गड्ढों के बिना एक समान हो जिससे कि द्रव पदार्थ इकट्ठा न हो। प्रशीतक कक्षों या शुष्क भण्डारण क्षेत्रों में नालियां नहीं दी जानी चाहिए।

6. प्रकाश और संवातन:—

6.1 काम करने के कमरों में सीधे प्राकृतिक प्रकाश और संवहन की व्यवस्था होनी चाहिए या यांत्रिक साधनों द्वारा पर्याप्त कृत्रिम प्रकाश और संवातन की व्यवस्था होनी चाहिए।

6.2 अच्छी क्वालिटी की भली भांति फैले हुए कृत्रिम प्रकाश की व्यवस्था उन सभी स्थानों में होनी चाहिए जहां पर्याप्त प्रकाश उपलब्ध नहीं है या अपर्याप्त है।

7. जल प्रदाय:—

परिसरों में पर्याप्त, सुरक्षित, पेय और निरन्तर ताजा पानी का प्रदाय सर्वत्र यथोचित दबाव पर उपलब्ध होगा।

7.2 कार्य समय के दौरान वधशाला हाल और कार्य करने के कमरों में साफ गर्म पानी का निरन्तर प्रदाय उपलब्ध होगा।

7.3 कसाईखाने में कार्यरत व्यक्तियों के लिए हाथ धोने के लिए उपयुक्त सुविधाएं होंगी। जिसके अन्तर्गत चालित गर्म और ठण्डे पानी के प्रदाय नख साफ करने वाले ब्रश और साबुन तथा अन्य अपमार्जक भी हैं, व्यवस्था की जाएगी।

7.4 जहां अग्नि नियंत्रण, आदि के लिए अपेय जल प्रयुक्त होता है वहां उसे अभिमानतः रंग से पहचान की जाने वाली पूर्णतः पृष्क लाईनों में लाया जाएगा और पेय जल लाने वाली लाईनों से उनका किसी भी प्रकार का प्रति संबंधन या टेशी नाली में सपेक्ष प्रवहन नहीं होगा।

8. सफाई और अनुरक्षण के लिए सुगमता:—उत्पाद हथालने वाले जोन के सभी भाग आसानी से दूरी जानकारी और सफाई और निरीक्षण के लिए उपलब्ध होंगे।

9. अस्वीकृत सामग्री:—निम्नलिखित सामग्री कसाईखाने में प्रयुक्त नहीं होगी, अर्थात्:—

(क) खाद्य उत्पादों के लिए प्रयुक्त उपस्करों में तांबा और उसकी मिश्रधातु।

(ख) खाद्य उत्पादों को हथालने वाले उपस्करों में किसी भी रूप में कैडमियम।

(ग) उत्पाद हथालने वाले जोजों में रंग लेपित सतह वाले उपस्कर।

(घ) इनेमल आधान या समतुल्य।

(ङ.) सीसा।

[फाईल सं. 6/3/92-ई प्राई एण्ड ई पी]

कुमारी सुमा मुव्वण्णा, निदेशक

MINISTRY OF COMMERCE

ORDER

New Delhi, the 22nd September, 1995

S.O. 2680.—Whereas for the development of the Export Trade of India, certain proposals for subjecting Processed Meat Products to quality control and inspection prior to export, were published as required by sub-rule (2) of rule 11 of the Export (Quality Control and Inspection) Rules, 1964, in the Gazette of India, Part-II, Section 3, Sub-Section (ii) dated 24th August, 1994 vide S.O. 2452 dated the 24th August, 1994;

And whereas the objections and suggestions were invited from all persons likely to be affected thereby within a period of forty five days of the date of publication of the said order in the Official Gazette.

And whereas the copies of the said Gazette were made available to the public on 27-10-1994;

And whereas the objections and suggestions received from the public, on the said draft have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by Section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government, after consulting with the Export Inspection Council, being of the opinion that it is necessary and expedient so to do for the development of the export trade of India, hereby :—

1. notifies that Processed Meat Products shall be subject to quality control and inspection prior to export.
2. specify the types of quality control and inspection in accordance with the export of Processed Meat Products (Quality Control and Inspection), Rules, 1995 as the types of quality control and inspection which shall be applied to such Processed Meat Products prior to export.
3. recognise the specifications as set out in schedule I to V appended to this order at the standards specifications for Processed Meat Products.
4. prohibit the export, in the course of international trade of Processed Meat Products unless a mark or seal recognised by the Central Government indicating that it conforms to the specifications applicable to it, has been affixed or applied to packages or containers of such Processed Meat Products is accompanied by certificate issued by the Agricultural Marketing Adviser to the Government of India or by any agencies established or recognised under section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) or by the Directorate of Animal Husbandry of State Government to the effect that such Processed Meat Products conforms to the aforesaid specifications or any other specification stipulated additionally in the Export Contract as the case may be, and is exportworthy.
5. Specified that nothing in this Order shall apply to the export by land, sea or air of bonafide samples of Processed Meat Products to prospective buyers, the value of which shall not exceed Five Thousand Rupees.

Explanation :

In this Order, Processed Meat Products means meat products (other than fresh, chilled, frozen, minced/ground meat) that have been manufactured subjecting the meat to processes such as curing, smoking, canning, cooking, dehydration and addition of salt, spices and enzymes either in single or in combination.

SCHEDULE I

SAMPLING OF CANNED PROCESSED MEAT PRODUCTS

1. General Requirements of Sampling
(1) Sampling shall be done by a person duly authorised by the designated Agency and in the presence of the manufacturers/exporter.

(2) Samples shall be stored and transported in such a way that the temperature of the material does not vary from the normal room temperature.

2. SCALE OF SAMPLING (1) In any consignment all the cases containing cans of the same size and from the same batch of manufacture shall be grounded together to constitute a lot.

(2) Samples shall be tested for each lot for ascertaining conformity of the material as per requirement of Schedule II to IV.

(3) The number of cans to be selected from the lot for testing the physical, chemical and microbiological requirements shall depend upon the size of the lot and shall be in accordance with Column (1) and (2) of the Table 1 given below.

TABLE—I

SELECTION OF CANS FOR TESTING

Number of Cans in the Lot ()	Number of Cans to be selected (n)
(1)	(2)
Upto 500	—6
500—1000	—7
1001—5000	—8
5001—10000	—9
above 10000	—10

(4) These cans shall be selected at random. The minimum number of packing cases to be opened may be in accordance with Table 2. The cans required as in (2.3) shall then be drawn at random, selecting at least 2 cans from each packing case.

(5) In order to ensure the randomness random number tables shall be used. In case such tables

are not available, the following procedure may be adopted.

(6) Arrange all the cans in a systematic manner and starting from any can, every can shall be withdrawn & being the integral part of N/n where N is the total number of cans in the lot, and n is the number of cans to be selected.

TABLE--2
OPENING OF PACKING CASES (CLAUSE 2, 4)

No. of Packing cases in the lot (N)	Number of Packing cases to be opened (n)
Upto 100	—2
101—500	—3
501—1000	—4
1001—5000	—5
above 5000	—6

1. Number of Tests: A representative sample drawn from the cans, selected for physical and chemical requirements, shall be tested for vacuum, head space, sodium chloride, nitrite, heavy metals and protein.

2. Tests for Microbiological requirements:—
(1) Incubation at 37°C—2 of the cans selected shall be incubated at 37°C for not less than 14 days and subjected to microbiological examination.

(2) Incubation at 55°C—Another 2 cans shall be incubated at 55°C for not less than 14 days and subjected to microbiological examination

3 Criterion For Conformity:— A lot shall be considered as conforming to the requirements of this standard if all the samples tested satisfy the corresponding requirements for the characteristics.

SCHEDULE II

STANDARD FOR CORNED BEEF

1. SCOPE- This standard applied to canned buffalo meat designated as "Corned Beef" and sold in hermetically sealed containers which have been heat treated after sealing to such an extent that the product is shelf-stable.

It does not apply to meat products of the type "Corned Beef" with compositional characteristics different from these specified. These products shall be designated with a qualifying statement which describes the true nature in such a way that it does not mislead the consumer and that it does not leads to confusion with products covered by this standard.

2. Description :—Corned Beef is chopped, cured, boneless carcass meat from buffalo live-stock and may include head meat, heart meat and skirt meat.

The product shall be prepared from coarsely cut buffalo meat which has been precooked or a mixture of such precooked meat to which a maximum of 5 raw meat has been added, in either case, the meat shall be cured before or after filling into the container.

The heat treatment shall be applied after the container is sealed and shall be sufficient to ensure that the product is shelf-stable and that it presents no public health hazard.

3. Essential Composition and Quality Factors :

(1) Essential ingredients :

- uncured buffalo meat
- curing ingredients consisting of food grade and sodium or potassium nitrite.

(2) Optional Ingredients :—

- Sucrose, invert sugar, dextrose (glucose), lactose, maltose, glucose syrup (including corn syrup).
- Textured vegetable, protein, cereals and starch provided that the total quantity of optional ingredients does not exceed 50% by weight.

(3) Composition :—

The total protein content in the final products shall not be less than 21% m/m.

(4) Raw Material :—The meat from which the product is prepared shall be of a quality suitable for consumption and free from objectionable odours and flavours.

(5) Final Products :—The final product shall be clean and substantially free from staining and contamination from the container. The meat shall be uniformly and thoroughly cured and the product shall be capable of being sliced, when chilled.

Food Additives :

(1) Preservatives	Maximum Level Calculated on the Total net content of the final product
A. Nitrite, potassium and or Sodium	50 milligram/kilogram total nitrite expressed as sodium
B. Potassium chloride	nitrite, Limited by good manufacturing practice.
(2) Antioxidants :	
Ascorbic acid and its sodium salt	Limited by good manufacturing practices.
Contaminants	Maximum Level
Lead (Pb)	1 milligram/kilogram
Tin (Sn)	
Tin (Sn) : for products in tinplate containers	200 milligram/kilogram
Tin (Sn) : for Products in other containers	50 milligram/kilogram

Hygiene : (1) The sanitary and other hygiene requirements to be complied with are as given under raw meat (chilled or frozen) (Quality Control and Inspection) Rules, 1992.

(2) All meat used in the manufacture of corned beef have been derived from animals subjected to ante-mortem and post-mortem inspection. It shall have been passed by an inspector as fit for human consumption. Meat shall not, subsequent to being examined by an inspector, have been exposed to contamination or processed or handled or subjected to the addition of any harmful substance which renders them unfit for human consumption.

(3) Raw or semi-processed meat and corned beef shall be handled, stored or transported in an establishment in a manner that will protect the meat and the corned beef from contamination and deterioration.

(4) The Product shall be packaged in hermetically sealed containers which do not permit contamination and which shall be clean and show the characterisation of ground containers and shall show evidence of vacuum.

(5) When processed containers are cooked in water the water shall be of potable quality or suitably treated so as not to constitute a public health hazard.

(6) After processing containers shall be handled in such a manner as to avoid contamination.

7. Labelling :—(1) Name to the Food : The name of the food product to be declared on the label shall be as "Corned Beef".

(2) List of Ingredients : complete list of ingredients shall be declared on the label in descending order of proportion and a specific name shall be used for all the ingredients.

(3) Date Marking and Storage Inspection : For canned corned beef which is a shelf-stable product the date of minimum durability shall be indicated by the year.

(4) Labelling of Non-retail containers : Information as appropriate needed for labelling of retail containers is given either on the non-retail container or in accompanying documents except that the name of the food, date marking and storage instructions, identification and the name and address of the manufacturer or packer shall appear on the non-retail container. However, lot identification, and the name and address of the manufacturer or packer may be replaced by an identification mark provided that such a mark is clearly identifiable with the accompanying documents.

(5) Net Contents : The net contents shall be declared by weight in either the metric ("Systems International") units or avoirdupois or both systems of measurements as required by the country in which the product is sold.

(6) Name and address : The name and address of the manufacturer/packer shall be declared provided that it may be replaced by an identification mark where such an identification mark has been issued by the country of origin.

(7) Country of Origin : The country of origin of the product shall be declared in clear words. The country in which the procession is performed shall be considered to be the country of origin for the purpose of labelling.

SCHEDULE III

STANDARD FOR LUNCHEON MEAT

1. Scope : The standard applies to products designated as "Luncheon Meat" which have been packed in any suitable packing material.

2. Description : The product shall be prepared from meat or poultry meat or a combination of these which has been and cured and which may have been smoked.

The product may or may not contain binders.

The heat treatment to which the product has been subjected and the type of cure and packaging shall be sufficient to ensure that the product presents no public health hazard and remains whole some under the conditions of storage, transport and sale as indicated in sub-section 6.4 and 6.5.

3. Essential Composition and Quality Factors :

(1) Essential Ingredients

- Meat or poultry meat or a combination of these water
- Curing ingredients consisting of food grade salt and sodium or potassium nitrite.

(2) Optional Ingredients :

- Edible offal, fat per se,
- Carbohydrate and protein binders such as
- Meal, flour or starch prepared from grain, or sweet potato.
- Bread, biscuit or bakery products.
- Milk powder, skim milk powder, butter milk powder, caseinate, whey powder, egg protein, textured vegetable protein, ground nut protein dried blood products, soya flour, soya protein, wheat gluten, lupin meal, sunflower meal.
- Sucrose, invert sugar, dextrose (glucose), lactose maltose, glucose syrup (including corn syrup).
- Spices, seasonings and condiments
- Hydrolyzed protein.

(3) Composition	Product with Binder	Product without binder and edible offal (But may include Heart Tongue or Head Meat.
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— Minimum ingoing meat content	80 %	90 %
— Maximum fat content.	35 %	30 %

(4) Essential Quality Factors :

(i) Raw Material : The ingredients from which the product is prepared shall be of a quality suitable for human consumption and free from objectionable odours and flavours.

(ii) Final product : The product shall be clean and substantially free from staining and contamination from the container. The meat and poultry meat shall be uniformly and thoroughly cured and the product shall be capable of being sliced.

4. Food Additives	Maximum in Going Amount
(1) Preservatives Nitrite, Potassium and/or sodium salts	200 Milligram/kilogram total nitrite expressed as sodium nitrite. Maximum Level Calculated on the Total net content of the Final Product
Nitrite, potassium and/or sodium Potassium chloride	125 milligram/kilogram total nitrite expressed as sodium. Limited by Good manufacturing practice.
(2) Antioxidants : Ascorbic acid and sodium salt Iso-ascorbic acid and sodium salt	Limited by good manufacturing practice.
(3) Flavours : Natural flavouring substances and nature-identical flavouring substances	Limited by good manufacturing practice.
(4) Flavour Enhancers : 5 Guanylate, disodium 5 Inosinate, disodium	Limited by good manufacturing practice.
(5) Acidity Regulators : Glucono-delta-lactone sodium citrate	Limited by good manufacturing practice.
(6) Water Retention Agents: Phosphates (naturally present plus added) Added phosphates (monodi-and poly sodium and potassium salts)	8000 milligram/kilogram (expressed P_2O_5) 3000 milligram/kilogram (expressed as P_2O_5) singly or in combination
(7) Colours: Erythrosine (CI 45430) to replace loss of colour (for the product with binder only)	15 milligram/kilogram
5. CONTAMINANTS:	Maximum level
Lead (Pb)	0.5 milligram/kilogram
Tin (Sn)	
Tin (Sn) : for products in tinplate containers	200 milligram/kilogram
Tin (Sn) : for products in other containers	50 milligram/kilogram
6. HYGIENE:	
(1) The sanitary and other hygiene requirements to be complied with are as given under raw meat	

(chilled or frozen Quality Control and Inspection) Rules, 1992.

(2) No meat including poultry meat and their products shall be accepted by an establishment unless the meat or meat products have been derived from animals subjected to ante mortem and post mortem inspection. They shall not be accepted unless they are properly branded or or marked in and in all ways suitable for human consumption and that they have not, subsequent to being examined by an inspector, been exposed to contamination or Processed or handled or subjected to the addition of any harmful substance which renders them unfit for human consumption.

(3) Meat including poultry meat and their products shall be handled, stored or transported in an establishment in a manner that will protect the meat and meat products from contamination and deterioration.

(4) Products that are heat treated after packaging shall be packed in hermetically sealed containers which do not present any health hazard or permit contamination under the conditions of handling, storage, transport and sale indicated on the label. The containers shall be clean and show the characteristics of sound containers and, where applicable to the type of container, shall show evidence of vacuum.

(5) Products that are heat treated before packaging shall be packaged in such a way that contamination is kept to a minimum so that the product will withstand spoilage and present no public health hazard under the conditions of handling, storage, transport and sale indicated on the label. The containers shall not present any health hazard or permit contamination under normal conditions of handling. They shall be clean and where applicable show evidence of vacuum.

(6) When processed containers are cooled in water, the water shall be of potable quality of suitably treated so as not to constitute a public health hazard.

(7) The final product shall be handled and stored in such a manner as to avoid contamination of the product.

7. LABELLING :

(1) Name of the Food :

The name of the product to be declared on the label shall be 'Luncheon Meat'.

A declaration of the presence of binders and of edible offal and a declaration indicating the species of animal from which the meat, poultry meat or a combination of these are derived shall be given in connection with the name of the product if their commission would mislead the consumer.

(2) List of Ingredients :

A complete list of ingredients shall be declared on the label in descending order of proportion except that specific names shall be used for ascorbic acid, iso-ascorbic acid and their sodium salts and nitrite (Potassium and sodium and that added phosphates may be declared by the class title "phosphates").

The list of ingredients shall indicate the species of animals from which the meat poultry meat or a combination of these are derived.

(3) Date Marking and Storage Instructions :

(i) For shelf-stable products the date of minimum durability shall be declared by the year.

(ii) For products which are not fully shelf-stable, i.e. which may be expected not to keep for at least 18 months in normal conditions of storage and sale, and which are packaged in a container ready for offer to the consumer or for catering purposes, the date of minimum durability shall be declared by day, month and year.

(iii) For products which are not self-stable and which are packaged in containers not sold directly to the consumers or for catering purposes, adequate storage and distribution instructions shall be declared.

(4) Labelling of Non-retail containers :

Information as appropriate needed for labelling of retail containers is given either on the non-retail containers or in accompanying documents except that the name of the food, date marking and storage instructions, lot identification and the name and address of the manufacturer or packer shall appear on the non-retail container. However lot identification and the name and address of the manufacturer or packer may be replaced by an identification mark provided that such mark is clearly identifiable with the accompanying documents.

(5) Net Contents :

The net contents shall be declared by weight in either the metric (system international) units or avoirdupois or both systems of measurement as required by the country in which the product is sold.

(6) Name and Address :

The name and address of the manufacturer/packer shall be declared, provided that it may be replaced by an identification mark where such an identification mark has been issued by the country of origin.

(7) Country of Origin :

The country of origin of the product shall be declared in clear terms. The country in which the processing is performed shall be considered to be the country of origin for the purpose of labelling.

SCHEDULE - IV

STANDARD FOR COOKED CURED CHOPPED MEAT

1. SCOPE : This standard applies to products designated as "Chopped meat" which have been packed in any suitable packaging material.

2. DESCRIPTION : The product shall be prepared from meat or poultry meat or a combination of these which has been cured and which may have been smoked. At least 50% of the meat used shall consist of coarsely cut pieces equivalent to meat ground through holes of not less than 8 mm in diameter. No piece shall be greater than 15 mm in any one dimension.

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The product may or may not contain binders.

The heat treatment to which the product has been subjected and the type of cure and packaging shall be sufficient to ensure that the product presents no public health hazard and remain whole some under the conditions of storage, transport and sale as indicated in paragraph 6, 4 and 6.5.

3. Essential Composition and Quality Factors :—

(1) Essential ingredients

— Meat or poultry meat or a combination of both water

— Curing ingredients consisting of food - grade salt (sodium chloride) and potassium or sodium nitrite.

(2) Optional Ingredients.

— Edible offal, fat perse, poultry meat;

— Carbohydrate and protein binders: Such as meal, flour or starch prepared from grain, potato or sweet potatoes;

— bread, biscuit or bakery products;

— milk powder, skimmed milk powder caseinate, whey powder egg protein, dried blood products, vegetable protein products;

— Source, invert sugar, dextrose (glucose), lactose, maltose, glucose syrup (including corn syrup).

— Hydrolyzed protein

(3) Composition	Product with binder.	Product without binder and edible offal (but may include Heart, Tongue or Head Meat from Mammals.
— Minimum ingoing meat content	80 %	90 %
— Maximum fat content	30 %	25 %

(4) Essential Quality Factors :

(i) Raw material — the ingredients from which the Product is prepared shall be of a quality suitable for human consumption and free from objectionable odours and flavours.

(ii) Final product — the product shall be clean and substantially free from staining and

contamination from the container. The meat and poultry meat shall be uniformly and thoroughly cured and the product shall be capable of being sliced.

4. FOOD ADDITIVES :

(I) Preservatives	Maximum Ingoing Amount
Nitrite potassium and/or sodium salts.	200 milligram/kilogram total nitrite expressed as sodium nitrite. Maximum level calculated on the total net content of the final products.
Nitrite, potassium and/or sodium salts.	125 milligram/kilogram total nitrite expressed as sodium nitrite.
Potassium chloride	Limited by good manufacturing practice.
(2) Antioxidants	Maximum level Calculated on the total net content of the final product.
Ascorbic acid and sodium salt.	Limited by good.
ISO-Ascorbic acid and sodium salt.	Manufacturing practice.
(3) Flavours :	
Natural flavouring substances and nature identical flavouring substances	Limited by good manufacturing practice
(4) Flavour Enhancers :	
5 Guanylate, disodium	Limited by good manufacturing practice
5 Inosinate, disodium	
(5) Acidity Regulators :	
Glucono-delta-lactone	Limited by good manufacturing practice
Sodium citrate	
(6) Water Retention Agents :	
Phosphate (Naturally present plus added)	8000 milligram/ Kilogram (expressed as P_2O_5)
Added phosphates (Mono, di and poly), sodium and potassium salts	3000 milligram/ Kilogram (expressed as P_2O_5) Singly or in Combination
(7) Colours	
Erythrosine (CI 45430) to replace lose of colour	15 milligram/kilogram

(for the product with binder only)

5. Contaminants :	Maximum Level
Lead (Pb)	0.5 milligram/ kilogram
Tin (Sn)	kilogram
Tin (Sn) for products in tinplate container	200 milligram/ kilogram
Tin (Sn) for products in other containers	50 milligram/

6. HYGIENE :—(1) The sanitary and other hygiene requirements to be complied with are as given under raw meat chilled or frozen (quality control and inspection) Rules, 1992.

(2) No meat including poultry meat and their products shall be accepted by an establishment unless the meat or meat products have been derived from animals subjected to ante-mortem and post-mortem inspection. They shall not be accepted unless they are properly branded or marked and in all ways suitable for human consumption and that they have not, subsequent to being examined by an inspector, been exposed to contamination, or processed or handled or subjected to the addition of any harmful substance which renders them unfit for human consumption.

(3) Meat including poultry meat and their products shall be handled, stored or transported in an establishment in a manner that will protect the meat and meat products from contamination and deterioration.

(4) Products that are heat treated after packaging shall be packaged in hermetically sealed containers which do not present any health hazard or permit contamination under the conditions of handling, storage, transport and sale indicate on the label. The containers shall be clean and show the characteristics of sound containers and, where applicable to the type of container, shall show evidence of vacuum.

(5) Products that are heat treated before packaging shall be packed in such a way that contamination is kept to a minimum so that the product will withstand spoilage and present no public health hazard under the conditions of handling, storage, transport and sale indicated on the label. The containers shall not present any health hazard or permit contamination under normal conditions of handling. They shall be clean and where applicable show evidence of vacuum.

(6) When processed containers are cooled in water the water shall be of potable quality or suitably treated so as not to constitute a public health hazard.

(7) The final product shall be handled and stored in such a manner as to avoid contamination of the product.

7. Labelling : (1) The name of the food : The name of the food to be declared on the label shall be 'chopped meat' except that the word 'Meat' may be replaced by a word describing the kind of meat used, or more than one kind of meat has been used, by the names in descending order of proportion, e.g., 'chopped pork', chopped park and beef.'

A declaration of the presence of binders and of edible offal and a declaration indicating the species of animal from which the meat, poultry meat or a combination of these are derived shall be given in connection with the name of the product if their omission would mislead the consumer.

(2) List of ingredients :

The list of ingredients shall indicate the species of animals from which the meat poultry meat or a combination of these are derived.

(3) Date marking and storage instructions :

For shelf-stable products the date of minimum durability shall be declared by the year. For products which are not shelf-stable that is which may be expected not to keep for at least 18 months in normal conditions of storage and sale, and which are packaged in a container ready for offer to the consumer or for catering purposes, the date of minimum durability shall be declared by day, month and year. For products which are not shelf-stable and which are packaged in containers not sold directly to the consumer or for catering purposes, adequate storage and distribution instructions shall be declared.

(4) Labelling of on-retail containers :

Information as appropriate needed for labelling of retail containers is given either on the non-retail containers or in accompanying documents except that the name of the food, date marking and storage instructions, lot identification and the name and address of the manufacturer or packers or packer shall appear on the non-retail container. However lot identification, and the name and address of the manufacturer or packer may be replaced by an identification mark provided that such mark is clearly identifiable with the accompanying documents.

(5) Net contents :

The net contents shall be declared by weight in either the metric system (system international) units

or avoirdupois or both systems of measurement as required by the country in which the product is sold.

(6) Name and Address :

The name and address of the manufacturer/packer shall be declared provided that it may be replaced by an identification mark where such an identification mark has been issued by the country of origin.

(7) Country of Origin :

The Country of origin of the product shall be declared in clear terms. The country in which the processing is performed shall be considered to be the country of origin for the purpose of labelling.

SCHEDULE - V

MINIMUM REQUIREMENTS FOR AN APPROVED ABATTOIR NOT CONFORMING TO IS-4393-1979

1. General :—The requirements indicated in the schedule will be provided/funded for by Government/Civic agencies at all approved public abattoirs/slaughter houses.

2. Layout :—The abattoir/slaughter house shall have the following essential facilities :—

- (a) Resting place for animals before slaughter,
- (b) Adequate facilities for ante-mortem inspection,
- (c) Carrying out humane slaughter,
- (d) Flaying, dressing and washing of the carcasses,
- (e) Hanging carcasses and edible offal,
- (f) Handling by-products,
- (g) Inspection of meat and disposal of meat unfit for human consumption,
- (h) Segregation wards for sick/diseased animals,
- (i) Adequate water supply.

3. Units in an Abattoir :—The abattoir shall have the following units :—

- (a) Reception area or resting ground,
- (b) Lairages,
- (c) Slaughter halls,
- (d) Ancillary accommodation,
- (e) Refrigerated room (Optional).

3.1 Slaughter Hall :—

3.1.1 Separate provisions, where required, shall

be made for slaughtering, dressing animals in accordance with halal, jhatka and jewish methods :—

- (a) Sheep and goats,
- (b) Large animals.

3.1.2 The slaughter halls and ancillary accommodation thus provided shall be separated.

3.1.3 Separate space shall be provided for stunning (wherever applicable) bleeding and dressing of carcasses.

- 3.1.4 A curbed-in bleeding area of adequate size should be provided.
- 3.1.5 Dressing of carcasses should not be done on floor.
- 3.1.6 Adequate space and suitable and properly located facilities shall be provided for inspection of viscera of the various types of animals slaughtered.
- 3.1.7 Carcasses washing—A curbed and separately dry area or an area sufficient size slopped to a floor drain.
- 3.2 Ancillary Accommodation—
 - 3.2.1 A separate room and hanging space shall be provided for emptying and cleaning of stomach and intestines.
 - 3.2.2 Suitable and sufficient accommodation shall be provided for the isolation of meats requiring further examination by the veterinarian in a suitable laboratory within the premises of the abattoir.
 - 3.2.3 Suitable and sufficient facilities shall be provided for the isolation of meat requiring further examination by the veterinarian.
 - 3.2.4 Suitable and sufficient accommodation shall be provided for the retention of all meat condemned and unfit for human consumption and shall be locked up separately.
- 3.3 Refrigerated Rooms:—
 - 3.3.1 This shall be optional but required where processing unit plants are not located within reasonable travelling distance.
 - 3.3.2 Hanging halls, if air-conditioned, should have temperature not higher than 10°C. Two retaining compartments constructed of rust resistant wire gauge or expanded metal portion extending from about 75 mm above ground to ceiling should be provided.
4. Rails for carcasses—Rails with hooks of suitable rust-proof metal or galvanised mild steel shall be provided for hanging the carcasses and similar provision for plucks shall be made, permitting free circulation of air. The hooks shall be suitably cleaned and sterilized regularly.
5. Civil Construction:
 - 5.1 Ante-mortem and Pan Area—The area should be paved with impervious material such as concrete non-slippery herring-bone type suitable to stand wear and tear by hooves or brick and patched to suitable drainage facilities. The pan should preferably be covered.
 - 5.2 Areas for vehicular Traffic—Concrete paved areas, properly drained facilities from building, loading docks or live-stock platforms shall be provided at places where vehicles are loaded or unloaded. Pressure washing jets and disinfection facilities for trucks carrying animals should be provided.
 - 5.3 Drainage—All parts of floors where wet operations are conducted should be well drained. It is important that the floors slope uniformly to drains with no low spots which collect liquids. Floor drains should not be provided in freezer rooms or dry storage areas.
6. Lighting and Ventilation:—
 - 6.1 Work rooms should be provided with adequate direct natural light and ventilation or ample artificial light and ventilation by mechanical means.
 - 6.2 Well distributed artificial lighting of good quality should be provided at all places where adequate natural light is not available or insufficient.
7. Supply of water:—
 - 7.1 A sufficient, safe, potable and constant supply of fresh water shall be available at adequate pressure throughout the premises.
 - 7.2 A constant supply of clean hot water shall be available in the slaughter hall and work-rooms during work hours.
 - 7.3 Suitable facilities for washing hands including adequate supplies of hot and cold running water, nail brushes and soap and other detergent shall be provided for persons working in an abattoir.
 - 7.4 Where non-potable water is used for fire control, etc. it shall be carried in completely separate lines preferably identified by colour and with no cross connections or back siphonage with lines of potable water.
8. Accessibility for Cleaning and Maintenance—All parts of the product handling zone shall be readily available in sight and reach for cleaning and inspection.
9. Non-acceptable Materials—In an abattoir the following materials shall not be used, namely:—
 - (a) Copper and its alloys in equipment used for edible products.
 - (b) Cadmium in any form in equipment handling edible products.
 - (c) Equipment with painted surface in product handling zones.
 - (d) Enamel containers or equivalent.
 - (e) Lead.

[F.No. 6/3/92-El&EP]

KUM. SUMA SUBBANNA, Director

नई दिल्ली, 22 सितम्बर, 1995

का. आ. 2181.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित नियम बनाती है, अर्थात्—

संक्षिप्त नाम और प्रारम्भ:—(1) इन नियमों का संक्षिप्त नाम प्रसंस्कृत मांस उत्पाद निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1995 है।

(2) ये राजपत्र में अलिप्त प्रकाशन की तारीख से प्रवृत्त होंगे।

2. परिभाषा:—इन नियमों में, जब तक कि संदर्भ से, अन्यथा अपेक्षित न हो:—

(क) “अधिनियम” से निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) अभिप्रेत है।

(ख) “अभिकरण” से क्वालिटी नियंत्रण या निरीक्षण अथवा दोनों के लिए अधिनियम की धारा 7 के अधीन स्थापित या मान्यताप्राप्त कोई अभिकरण अभिप्रेत है,

(ग) “पशु” से निम्न किसी भी जाति का पशुधन अभिप्रेत है, अर्थात्:—

- (क) भैंस,
- (ख) भेड़,
- (ग) बकरी।

(घ) “अस्थिरहित मांस” से वह प्रसाधित मांस अभिप्रेत है जो कण्डराओं, हड्डियों, उपास्थितियों और पृथक्करणीय मंत्रिकाओं से मुक्त हो।

(ङ) “पशु शव” से किसी पशु का वधित शरीर या उसका कोई अंग जिसके अन्तर्गत अंतरांग भी है, अभिप्रेत है।

(च) “छिद्वा बन्द मांस उत्पादों” से समुचित आधानों में पैक किए गए ऐसे मांस उत्पाद अभिप्रेत हैं जिन्हें समुद्र के पश्चात् इस सीमा तक उष्मोपचारित किया गया हो कि उसमें रखा उत्पाद सुरक्षित हो।

(छ) “द्रुतशीतल” से अभिप्रेत है कि शव/टुकड़ा या कीमा का ऋण तापमान किसी भी प्रक्रम पर 4 डिग्री सेल्सियस से अधिक नहीं होगा।

(ज) “कानर्ड मांस” से भेड़ का टुकड़ा किया हुआ, संसाधित या हड्डी रहित शव मांस अभिप्रेत है और जिसमें शीपे मांस, हृदय मांस तथा स्कट मांस सम्मिलित होगा।

(झ) “टुकड़ों” से प्रसाधित शवों और हड्डियों रहित मांस से प्राप्त मांस अभिप्रेत है।

(ञ) “खाद्य मांसावशिष्ट” से ऐसा मांसावशिष्ट और पोल्ट्री चर्म अभिप्रेत है जो मानव उपभोग के लिए उचित है और जिसमें फेफड़े सम्मिलित हैं किन्तु वे ऐसे पशु के नहीं हों जिसमें से फेफड़े निकाल कर गर्म पानी में निमज्जन द्वारा मांस क्रमिक किए गए हैं, इसमें पशु के कान, सिर की खाल प्रोथ को छोड़कर ओठ और श्थन, म्यूक्स झिल्ली, स्नायु, जनन तंत्र, यैन अंतर्द्वियाँ और मूत्राणय सम्मिलित होंगे।

(ट) “अधर्नकाय” से कर्शेरू का अनुप्रस्थ प्रक्रिया द्वारा रीढ़ की हड्डी के बीच में या से रीढ़ की हड्डी को पृथक् करके काटे गए/टुकड़े लिए गए बराबर भाग से बाँटे गए शव अभिप्रेत हैं।

(ठ) “समुद्रित आधानों” से ऐसे आधान अभिप्रेत हैं जो कि अच्छी तरह सील किए गए हैं, दृढ़ और अपारगम्य हैं और वह उसमें रखे गए उत्पाद के लिए उचित सामग्री का बचा हुआ है।

(ड) “निरीक्षण अधिकारी” के केन्द्रीय सरकार, राज्य सरकार स्थानीय निकायों का अर्हता प्राप्त पशु चिकित्सक या इस प्रयोजन के लिए उपयुक्त अभिकरण द्वारा नियुक्त या मान्यताप्राप्त कोई अधिकारी अभिप्रेत है।

(ढ) “कृण” से पृथक्करणीय वहाँ से मुक्त मांस अभिप्रेत है।

(ण) “लंचन मांस” से चूरा तथा संसाधित मांस अभिप्रेत है और उसमें खाद्य मांस व शिष्ट या पोल्ट्री मांस सम्मिलित होगा जो उष्मोपचारित होगा और यह सुनिश्चित करते हुए पैक किया जाएगा कि उत्पाद लोक स्वास्थ्य के लिए कोई संकट उत्पन्न नहीं करता और भण्डारकरण तथा परिवहन की दशाओं में स्वास्थ्यकर रहता है।

(त) “मांस” से भैंस, भेड़ और बकरी के खाद्य मांसावशिष्ट सहित किसी पशु के खाद्य अंग अभिप्रेत है।

(थ) “कीमा मांस” से भैंस, भेड़ या बकरी के हड्डी रहित मांस से प्राप्त एक समान दानों का पूरा मांस अभिप्रेत है।

(द) “शुद्ध भार” से पैकिंग के समय प्रसंस्कृत मांस का भार अभिप्रेत है किन्तु उसके अन्तर्गत आधान और पैकिंग सामग्री का भार नहीं है।

(ध) “पैक किया गया” से ऐसी सामग्री से विनिर्मित किन्हीं आधान में पैक किया हुआ अभिप्रेत है जो कि उठाई-धराई की सामान्य दशा में मांस को संदूषित या उसकी क्वालिटी को प्रभावित नहीं करेगा।

(न) “पोल्ट्री” से पालतू पक्षी अभिप्रेत है जिसमें मुर्गे, टर्की, बतख, ग्रीग, गिन्नी, कुक्कट, बटेर सम्मिलित हैं;

(प) “क्वाटर्” (चौथार्ड) से अभिप्रेत है शव का चौथा भाग या जब के एक तरफ से काटे गए टुकड़ों के आधे का आधा हिस्सा और सामान्य रूप से अग्र तथा पश्च क्वाटर् के रूप में श्रेणीकृत किया जाता है ;

(फ) “अनुसूची” से इन नियमों से संलग्न अनुसूची अभिप्रेत है ;

(ब) “पशु बध” से अभिप्रेत है किसी अनुज्ञप्त बध-शाला में, जहां पशु की बध से पूर्व तथा बध के पश्चात् जांच की जाती है, खाने के लिए पशुओं के प्रति श्रुता का निवारण अधिनियम, 1960 (1960 का 54) के उपबंधों से संगत मानवीय ढंग से किसी पशु का बध करना है ;

(भ) “बधशाला या कसाईखाना” से ऐसा कोई परिसर अभिप्रेत है जो मानव उपभोग के लिए आशयित पशुओं के बध के लिए स्थानीय अधिकारी द्वारा प्राधिकृत है ;

3. क्वालिटी नियंत्रण और निरीक्षण :—निर्यात के लिए आशयित प्रसंस्कृत मांस का यह सुनिश्चित करने की दृष्टि से क्वालिटी नियंत्रण किया जाएगा कि वह अधिनियम की धारा 6 के अधीन सरकार द्वारा मान्यता-प्राप्त विनिर्देशों के अनुरूप है।

4. कसाई खाने की अपेक्षाएं :—निर्यात के लिए प्रसंस्कृत मांस की क्वालिटी आश्वासित करने के प्रयोजन के लिए, यह सुनिश्चित किया जाएगा कि कसाई खाना जहां पशुओं का बध किया जाता है, निम्नलिखित अपेक्षाओं को पूरा करता है :—

(क) सभी कसाई खाने, जो निर्यात किए जाने वाले मांस के लिए उद्योगों को कच्ची सामग्री की अपेक्षाओं की पूर्ति करते हैं और जो इन नियमों के प्रारम्भ की तारीख से विद्यमान हैं, भा. मा. 4393—1979 में “कसाई खाने की आधारभूत अपेक्षाएं” बतायी गयी अपेक्षाओं को पूरा करेंगे।

(ख) इन नियमों की अधिसूचना की तारीख के पश्चात् निर्धारित और मांस के निर्यात के लिए कच्ची सामग्री सुनिश्चित करने के प्रयोजनों के लिए उपयोग में लाये जाने वाले कसाई खाने या बधशालाएं भा. मा. 4393—1979 की अपेक्षाओं का परिपालन करेंगे।

(ग) जहां इन नियमों की अधिसूचना की तारीख के पश्चात् कसाई खाने या बधशाला निर्यात के लिए मांस के स्वतः प्रयोजन के लिए बने हैं और वे कसाई खाने के लिए स्वीकृत अन्तर्राष्ट्रीय मानकों के अनुरूप हैं वहां ऐसी स्थितियों को ऊपर उल्लिखित भा. मानकों के

अनुरूप होना आवश्यक नहीं है और वह किसी भी अन्य स्वीकृत अन्तर्राष्ट्रीय मानकों के अनुपालन के आधार पर अनुज्ञापन के पात्र होंगे।

(घ) ऐसे वर्तमान कसाई खानों की दशा में जो खंड (क) की अपेक्षाओं को इस समय पूरा नहीं करते हैं उन्हें इन नियमों के प्रारम्भ की तारीख से तीन वर्ष की अवधि के भीतर अपेक्षाओं को पूरा करना होगा। किसी ऐसे कसाई खाने के लिए जो भा. मा. 4393—1979 के अनुरूप नहीं है न्यूनतम अपेक्षाएं अनुसूची—IV में अनुबद्ध अपेक्षा को पूरा करेगी।

5. मरणोपूर्व तथा मरणोपरान्त निरीक्षण के लिए शर्तें :—पशुओं का मरणोपूर्व तथा मरणोपरान्त निरीक्षण किसी अहित पशु चिकित्सिक द्वारा किया जाएगा।

6. भण्डारण :—(1) शवों का आधा भाग/चौथार्ड भाग ठंडे कमरे में इस प्रकार ढांगा जाएगा जिससे कि वह छत से कम से कम 30 सें. मी. दीवारों से 10 सें. मी. और फर्श से 10 सें. मी. दूर हो।

(2) प्रसंस्कृत मांस उत्पादों को इस प्रकार भण्डारित किया जाएगा कि वह सूक्ष्मजीवों की प्रचुरमात्रा की सहायता से संदूषण को रोकेगा और उत्पाद को खराबी या आधान को टूटफूट से रोकेगा। प्रसंस्कृत मांस उत्पादों के कालिक निरीक्षण के दौरान अभिकरण यह सुनिश्चित करेगा कि वे उत्पाद जो मानव उपभोग के लिए उचित हैं वे प्रेषित किए जा चुके हैं और वह अन्य विनिर्देशों का अनुपालन करेंगे जब वे विद्यमान हों। वे लाट संख्यांक के क्रम में प्रेषित किए जाएंगे।

(3) प्रसंस्कृत मांस उत्पादों के लिए प्रयुक्त आधानों को भण्डारित करने के लिए स्वच्छता अपेक्षाओं को पूरा करने वाली सुविधाएं इस प्रकार की होंगी कि न तो उत्पाद न ही आधान सीधे फर्श के सम्पर्क में आएंगे।

(4) जहां प्रसंस्कृत मांस उत्पाद द्रुतशीतित कक्ष में रखे हैं वहां निम्नलिखित उपाबंध लागू होंगे, अर्थात् :—

(क) दक्षतापूर्वक प्रचालन के लिए आवश्यक कर्मचारियों को ही प्रवेश करने दिया जाएगा।

(ख) दरवाजे अधिक समय तक खुले नहीं रहेंगे तथा प्रयोग के तुरन्त पश्चात् बन्द कर दिए जाएंगे।

(ग) प्रसंस्कृत मांस उत्पादों को रखने के लिए प्रयुक्त आधानों को सीधे ही फर्श पर नहीं रखा जाएगा।

(घ) उत्पाद के मध्य भाग को खराब होने से बचाने के लिए गर्म उत्पादों को बड़े आधानों में पैक करने से पूर्व द्रुतशीतित किया जाएगा। प्रसंस्कृत मांस उत्पादों के सभी पैकेजों को शीघ्र ठण्डा करने के लिए नान गैल्फ स्थिर प्रसंस्कृत मांस उपाधानों को द्रुतशीतन तापमान पर रचना

आवश्यक है। उन्हें पलैट्स या डनेज (निभार) पर इस तरीके से रखा जाएगा कि वहां पर्याप्त वायु परिसंचन हो।

(इ) किसी भी दूतशीतन कक्ष को उसकी निर्धारित क्षमता से अधिक नहीं भरा जाएगा।

(च) जहां प्रशीतक उपकरण की व्यवस्था नहीं है वहां स्वचालित तापमान रिकार्डर लगाए जाने चाहिए। यदि कोई भी स्वचालित युक्ति नहीं लगाई जाती है तो तापमान नियमित अंतरालों पर चेखा जाएगा और रीडिंग को एक लॉग बुक में अभिलिखित किया जाएगा।

7. मांस प्रसंस्करण संयंत्र की स्वच्छता संबंधी और अन्य अपेक्षाएं:—परिसर स्थानीय प्राधिकारी द्वारा अनुमोदित और रजिस्ट्रीकृत प्रसंस्करण एकांक के लिए उपयुक्त होगा।

7.1 परिसर नीचे दलान वाले किसी ऐसे क्षेत्र में अवस्थित नहीं होगा जिसमें बार-बार बाढ़ आती हो।

7.2 समस्त याई, उपग्रह, भण्डार तथा कारखाने के सभी भाग हमेशा साफ और स्वच्छ दशा में रखे जाएंगे।

7.3 परिसर के भीतर सड़क पक्की होगी।

7.4 जहां समूची उत्पाद, फल और सब्जी उसी क्षेत्र में रखी जाती है वहां परिसर, स्वच्छ स्थान पर अवस्थित होंगे। वह परिसर जहां मांस प्रसंस्कृत किया जाता है, पर्याप्त रूप से उस परिसर से विभाजित होगा जहां ये उत्पाद प्रसंस्कृत होते हैं या यदि वे उसी प्रसंस्करण हॉल में सम्पन्न किए जाते हैं तो वहां विभिन्न प्रक्रियाओं के बीच सात दिन का अन्तर होगा।

7.5 इनमें कुत्तों, बिल्लियों, कुत्ताक, कीट, मक्खियों, कोवा, चमगादड़ और गिद्धों या प्रवेश निषिद्ध होगा। विष या ज्वारे का प्रयोग उस स्थान पर प्रतिषिद्ध है जहां प्रसंस्करण किया जाता है या किसी अन्य पौष्टिक उत्पाद को भण्डारित किया जाता है।

7.6 परिसर का इस तरह से संनिर्माण और रख-रखाव किया जाएगा जिससे कि स्वास्थ्यकर प्रसंस्करण तथा प्रसाधन हो सके। शव मांस उत्पाद के प्रसंस्करण या पैकिंग संबंधी सभी क्रियाएं कड़ी स्वास्थ्यकर दशाओं में और केंद्रीय सरकार या अभिकरण के किसी अहित पशु चिकित्सक के पर्यवेक्षण में की जाएगी। मांस, फर्श, दीवारों और अन्य संरचनाओं के सम्पर्क में नहीं आएगा, उसको छोड़कर जो मांस के सम्पर्क के लिए विशेषकर निर्मित की गई है। प्रसंस्करण क्षेत्र के किसी भी भाग का रहने या सोने के प्रयोजनार्थ तब तक कभी भी प्रयोग नहीं किया जाएगा जब तक कि वह किसी दीवार के द्वारा प्रसंस्करण प्रसाधन क्षेत्रों से अलग नहीं किया गया हो।

7.7 प्राधिकृत परिसरों के सभी भाग हमेशा साफ रखे जाएंगे पर्याप्त रोशनी वाले होंगे, कार्य कक्षों में 220 लक्स तथा निरीक्षण क्षेत्रों में 550 लक्स सघनता होनी चाहिए जो हवादार होंगे तथा जिनकी नियमित रूप से सफाई की जाएगी और जो विसंक्रमित और निर्गन्धीकृत किए जाएंगे। परिसरों में सभी संचालनों के संतोषप्रद निष्पादन के लिए पर्याप्त कार्य स्थान होना चाहिए। फर्श, अवश्य न फिसलने वाले होंगे और रोगाणुनाशक से उनकी प्रतिदिन धुलाई की जाएगी। फर्श का ढलान इस प्रकार से होना चाहिए कि जिससे तरल पदार्थ आसानी से बाहर निकल सके और निकास द्वारा गिरा द्वारा सुरक्षित होंगे चाहिए। केवल उन कक्षों में गिरा नहीं होगी जहां मांस हिमशीतित किया जाता है या हिमशीतित या भंडारित किया जाता है। यथास्थिति, सफेद, रंग धुलाई या रंगलेपन वर्ष में कम से कम एक बार अवश्य होना चाहिए। सत्पापन और निरीक्षण को सुकर बनाने के लिए इनकी करने की तारीख की सूचना अभिकरण को अग्रिम रूप में दी जानी चाहिए। फर्श, दीवारें, छत, विभाजन, दरवाजे तथा सभी संरचनाओं के अन्य भाग ऐसी सामग्री, सन्निर्माण और फिनिश के होंगे जिससे कि वे शीघ्र और पूर्ण रूप से साफ किए जा सकें।

दीवारों पर 1.5 मीटर तक की ऊंचाई तक सफेद चमकदार टाइलें लगी होंगी जिससे की गर्म पानी व रसायन युक्त रोगाणुनाशक से धुलाई की जा सके। अनुकूलतः उपयुक्त कोटिंग या सफाई संबंधी वस्तुएं सेरेमिक के स्थान पर प्रयुक्त की जा सकती हैं। दीवारों, दरारों, विदरिकाओं तथा सीलन से मुक्त होंगी।

7.8 मांस का प्रसंस्करण करने के लिए प्रयुक्त सभी संयंत्र क्षेत्रों को समुचित रूप से मक्खियों से सुरक्षित रखा जाएगा।

7.9 छत स्थायी प्रकार की होगी जो धूल को एकत्रित होने से रोक सके फफूंदी जमने, सफेदी फूलने और पपड़ी बनकर गिरने की प्रक्रिया को काफी कम कर सकेगा और आसानी से साफ की जा सके। जहां कहीं भी सीढियां हों वे ऐसी सामग्री से निर्मित होनी चाहिए जिसकी सरलता से और प्रभावी ढंग से सफाई की जा सके और उनकी सतही काट होनी चाहिए और न्यूनतम ऊंचाई 1.5 मी. होगी।

7.10 प्रसंस्करण क्षेत्र मकड़ियों व उनके जालों से मुक्त होंगे।

7.11 वे कमरे और कक्ष जिनमें मांस का प्रसंस्करण और भण्डारण करना है वे प्रसाधन कक्षों, स्नानागार, क्रेच बेसिन, उत्पाद भण्डारण पणुओं के बाड़े आदि से निकलने वाली धूल व दुर्गन्ध से मुक्त होंगे।

7.12 उपस्कर ऐसे स्थान पर रखे जाने चाहिए कि सफाई के लिए उनका भली भांति निरीक्षण किया जा सके। मारे गए पशुओं के गव्यों और मांस उत्पादों को तैयार करने के प्रसाधन के लिए प्रयुक्त होने वाली मेजें और उपस्कर ऐसी सामग्री से बने होंगे जो सरलता से साफ किए जा सकें,

निर्गमित हो और जल के लिए अप्रवेद्य हो, रसायन और जंग प्रतिरोधी तथा समतल हो। खाद्य या बेकार सामग्री को रखने के काम आने वाले उपस्करों और बर्तनों की अलग पहचान होनी चाहिए ताकि वे खाने के काम आने वाले मांस और मांस उत्पादों को रखने के काम में लाए जाएं। मांस और मांस उत्पादों को संग्रह करने के काम में आने वाला कोई भी बर्तन या आधान जस्तीकृत लोहे या लोहे का बना नहीं होना चाहिए, मांस प्रशीतन ट्रे को छोड़कर, जो जस्तीकृत लोहे की हो सकती है। तांबे या लोहे का बर्तन जब प्रयोग में लाना हो तो वह भोटी कलाई किया होना चाहिए। प्रसंस्करण क्षेत्र में लकड़ी के उपस्करों, ढांचों के प्रयोग से बचना चाहिए। लकड़ी के दबाने वाले भारी पट्टों और धुरों के लकड़ी के बने हथ्यों को जब काम में लाया जाए तो उन्हें प्रतिदिन गर्म पानी से धोना या भांप से कीटाणु मुक्त करना चाहिए। लकड़ी के दबाने वाले पट्टे इतने मजबूत होने चाहिए कि वे बाब के प्रभाव को भली भांति सह सके और वे मांस को लकड़ी के बुरादे से प्रदूषित न करें।

7.13 प्रसंस्करण, क्षेत्र, अभिकरण के अनुमोदन के बिना उसी जाति के पशु के मांस के अतिरिक्त किसी अन्य सामग्री के प्रसंस्करण के लिए प्रयोग में नहीं लाया जाएगा।

7.14 पानी के निकास और नलकर्म प्रणाली कुशलता और पर्याप्तता की दृष्टि से संयंत्र को ध्यान में रखते हुए तैयार की जानी चाहिए और सभी नालियां और गटर उचित और स्थायी तौर पर स्थापित होने चाहिए। प्रसंस्करण एकक की जल निकास प्रणाली प्रसंस्करण भवन के भीतर बनी उन नालियों आदि से नहीं जुड़ी होनी चाहिए जो शौचालयों या पशुओं के बाइलों से निकलने वाली वहिस्त्राव सामग्री को लाने के लिए बनी हो। मैनहोल रिसने वाले नहीं होने चाहिए जिससे कि रूकावट के कारण अपशिष्ट पदार्थ वापस न आ सके।

7.15 प्रसंस्करण क्षेत्र में प्रवेश निर्बाधित होगा और वधशाला या उपोत्पाद अनुभाग के प्रसंस्करण कर्मचारी का सफाई क्षेत्र अर्थात् प्रसंस्करण या पैकिंग क्षेत्र में प्रवेश अनुज्ञात नहीं किया जाएगा। पहचान की सुविधा के लिए सफाई क्षेत्र के कर्मचारियों की पोशाक अन्य क्षेत्र के कर्मचारियों की पोशाक से भिन्न प्रकार की होगी।

7.16 मांस प्रसंस्करण से संबंधित सभी कार्यकलापों के लिए जिसमें पानी के प्रयोग की आवश्यकता है पर्याप्त स्वच्छ तथा पेय जल प्रयुक्त किया जाएगा। प्रसंस्करण से संबंधित क्रियाकलापों के लिए अप्रयुक्त किए जाने वाले जल का नियमित परीक्षण किया जाएगा और संयंत्र में ऐसे परीक्षण के लिए पर्याप्त व्यवस्था होनी चाहिए। यदि जांच करने पर उपरोक्त जल अस्वास्थ्यप्रद या पीने योग्य पानी नहीं पाया जाता है तो प्रदाय के लिए जिम्मेवार प्राधिकारियों को इसकी रिपोर्ट की जाएगी और यदि यह प्रसंस्करणकर्ता के निजी साधनों से है तो प्रसंस्करणकर्ता स्वास्थ्यप्रद और पेय जल देने के लिए सभी आवश्यक कदम उठाएगा।

7.17 वाशबेसिन प्रचुर मात्रा में अपमार्जक तथा हानिरहित प्रतिरोधी घोल युक्त होंगे विशेषतः गर्म या ठण्डे पानी के लिए पाद संचालित संयोजक टोकियां प्रत्येक प्रवेश व निकास स्थलों पर दी जाएंगी।

7.18 कर्मचारियों और संयंत्रों की सफाई रखने के लिए प्रचुर मात्रा में पानी उपलब्ध कराया जाएगा। मेजें, दस्ती, आरी, छुरियां, स्टील विदारक चाकू के पेंच, मांस के भण्डारण के लिए आधानों को अपमार्जक घोलों तथा गर्म पानी से फर्श पूर्ण रूप से साफ किया जाएगा। चाकू तथा अन्य काटने के औजार/उपस्करों के निर्जमीकरण के लिए 82° से. ग्रेड तथा उससे अधिक तापमान पर गर्म पानी उपलब्ध होना चाहिए। यदि भांप के उत्पादन या रेफ्रिजरेशन या अग्नि नियंत्रण या प्रसंस्करण से अन्य प्रयोजनों के लिए अपेय जल प्रयुक्त किया जाता है तो ऐसा पानी बिलकुल अलग नलिकाओं से जाएगा और उनका पीने के पानी की लाइन में कोई क्रॉस कनेक्शन नहीं होगा।

7.19 किसी भी ऐसे व्यक्ति को जिनके हाथों पर खुला घाव होगा प्रसंस्करण क्षेत्र में कार्य करने के लिए अनुज्ञात नहीं किया जाएगा। किसी भी ऐसे व्यक्ति को जो संक्रामक या सार्वजनिक रोगों से पीड़ित है, परिसर में प्रविष्ट नहीं होने दिया जाएगा। सभी कर्मचारियों की वर्ष में एक बार न्यूनतम एम.बी.बी.एस. अर्हता वाले किसी रजिस्ट्रीकृत चिकित्सा व्यवसायी द्वारा डाक्टरी जांच कराई जाएगी। रजिस्ट्रीकृत चिकित्सा व्यवसायी द्वारा सम्यक रूप से हस्ताक्षरित ऐसी जांचों का अभिलेख रखा जाएगा और जब वह चाहे निरीक्षण अधिकारी को प्रस्तुत किया जाएगा। प्रसंस्करण क्षेत्र में कर्मचारियों की भीड़ से बचने के लिए सभी को एक दूसरे से पर्याप्त दूरी रखते हुए कार्य करने के लिए भेजे दैनी होंगी।

7.20 प्रसंस्करण क्षेत्र में धूमना, चर्वण और धूम्रपान करना प्रतिषिद्ध होगा।

7.21 उंगलियों के नाखून और बाल उचित रूप से समाकृतिक और ढके होंगे। प्रसंस्करण क्षेत्रों में कंधी करना और नाक की सफाई करना तथा भीकने का निषेध होगा।

7.22 सभी प्रसंस्करण कर्मचारियों को एप्रेन, हैंडवियर, हाथ के दस्ताने तथा जूते ऐसी सामग्री के बने हुए देने होंगे जो कि आसानी से साफ एवं विसंक्रामित किए जा सकें। पर्यवेक्षण कर्मचारीबुन्द यह सुनिश्चित करेंगे कि वे साफ मुथरे हों तथा कर्मकार स्वस्थ, साफ और खुश रहें। गयोचित उपयुक्त और सुविधाजनक रूप से परियंत्रनकारी सुविधाएं उपलब्ध कराई जाएंगी।

7.23 प्राधिकृत परिमरों में पर्याप्त शीतगार सुविधाएं होंगी।

7.24 शीतागार (इन्तशीतन) कक्ष, हिमशीतन कक्ष, हिमशीतन भंडार अनुज्ञति प्राप्त परिमर होंगे। शीतागार का तापमान अभिलेख रखा जाएगा और एक वर्ष तक बनाया रखा जाएगा।

7.25 प्रसंस्करण क्षेत्र में प्रविष्ट होने वाले सभी बाहरी व्यक्ति को रोगाणुनाशक जल में पैर धोने के पश्चात् ही प्रविष्ट होने दिया जाएगा।

7.26 जहां किसी भी लिंग के पांच या अधिक कर्मचारी नियोजित हैं वहां नीचे यथा विनिर्दिष्ट रूप में उपबंधित प्रत्येक लिंग के लिए पर्याप्त संख्या में प्रक्षालनागार और वासवेसिन होंगे।

कर्मचारियों की संख्या	शौचा- लयों की संख्या	मूत्रालयों की संख्या	बास- बेसिनों की संख्या	स्नानघरों की संख्या
1. 25 से अनधिक	1	2	1	1
2. 25 से अधिक किन्तु 49 से अनधिक	2	4	2	2
3. 50 से अधिक किन्तु 100 से अनधिक	3	6	3	3
4. 100 से अनधिक और उससे ऊपर	5	10	5	5

ये प्रसंस्करण हालां से दूर स्थित होने चाहिए। प्रतिदिन उनकी विसंक्रमण की व्यवस्था की जानी चाहिए। प्रक्षालनागार का मुख्य द्वारा कीड़े मकोड़े रोधी और उसमें स्वतः बंद होने वाला दरवाजा होना चाहिए। पर्याप्त परिवर्तन कक्ष की सुविधा भी होनी चाहिए।

7.27 निष्कासन पंखों (एक्जॉस्ट फैन) का जहां आवश्यक हो, प्रयोग किया जाएगा।

7.28 अपशिष्ट के परिवहन के लिए प्रयुक्त टाली को इस प्रकार चिन्हित किया जाएगा जिसे कि उनकी उससे अलग पहचान हो जाए जो केवल मांस और मांस उत्पादों के परिवहन के लिए अन्य रूप से प्रयुक्त होंगे।

7.29 अपशिष्ट सामग्री की उठाई धराई इस ढंग से की जाएगी की खाद्य या पेयजल दूषित ना हो। अपशिष्ट सामग्री तक नाश्व जीव की पहुंच के निवारण के लिए पूर्व सावधानियां बरती जाएंगी। मांस और मांस उत्पाद की उठाई धराई तथा अन्य कार्य क्षेत्र के पास से अपशिष्ट सामग्री को नियमित अंतरालों पर और दिन में कम से कम एक बार हटा देना चाहिए। भण्डार के लिए प्रयुक्त अपशिष्ट पात्र और अपशिष्ट सामग्री के सम्पर्क में आने वाले उपस्कर की सफाई की जानी चाहिए और उन्हें विसंक्रमित करना चाहिए। सप्ताह में दिन में कम से कम एक बार अपशिष्ट सामग्री भण्डारकरण क्षेत्र की सफाई की जानी चाहिए तथा उसे संक्रमित करना चाहिए।

7.30 प्रतिदिन कार्य करने के पश्चात् सभी प्रसंस्करण क्षेत्र और उपस्करों की सफाई और विसंक्रमण होना चाहिए।

7.31 द्रुतशीतन कक्ष की सफाई तथा स्वच्छ करने के लिए निश्चित समय सूची अपनाई जानी चाहिए।

8. नमूना लेने और परीक्षण की पद्धति:—निर्यात के लिए आशयित प्रसंस्कृत मांस उत्पादों का निरीक्षण इन नियमों की अनुसूची 1 में अन्तर्विष्ट अनुदेशों के अनुसार नमूना लेकर किया जाएगा और उनका परीक्षण इस दृष्टि से किया जाएगा कि परेषण मानक विनिर्देशों के अनुरूप है।

9. निरीक्षण का स्थान:—इन नियमों के प्रयोजन के लिए प्रसंस्कृत मांस उत्पादों का निरीक्षण प्रसंस्करणकर्ता या विनिर्माता के परिसर पर किया जाएगा जो कि अभिकरण को ऐसा निरीक्षण करने के लिए सभी आवश्यक सुविधाएं देगा।

10. निरीक्षण शुल्क:—प्रसंस्करण मांस के प्रति परेषण न्यूनतम 100 रु. के अधीन रहते हुए एक किलोग्राम या उसके भाग के टिन/पैकेज पर 0.15 पैसे की दर से अभिकरण को निरीक्षण फीस दी जाएगी।

11. अभिकरण का अनुदेश:—परिसरों में स्वच्छता, कार्मिकों और उपस्करों की सफाई, प्रचालन संबंधी प्रक्रियाएं, प्रसंस्कृत मांस का नमूना लेने, परीक्षण, पैकेजिंग चिन्हांकन की पद्धति किसी भी प्रक्रम पर निरीक्षण और उनके अभिलेखों के रखरखाव के संबंध में परिषद द्वारा समय-समय पर जारी किए गए और इन नियमों से अनुरूप अनुदेशों का पालन किया जाएगा।

12. शव/प्रसंस्कृत मांस उत्पादों के परिवहन की शर्तें:—

- (1) मांस की किस्म पर निर्भर रहते हुए शव/मांस के परिवहन के लिए निम्नलिखित सारणी के स्तम्भ
- (2) में अनुबद्ध शर्तों का पालन किया जाना है:—

मांस की किस्म	परिवहन के लिए विनिर्देश
1	2

ताजा यान पूर्ण रूप से अप्रवेश्य फर्श और सतही दीवार से ढके होने चाहिए। 100 किलो मीटर से अधिक के परिवहन की दशा में 6. सें. ग्रे. से अनधिक तापमान बनाए रखने के उपयुक्त प्रबंध करने होंगे।

द्रुतशीतित रेफ्रिजरेटिड/विद्युत्तरोधी बैन से ले जाया जाएगा। 100 कि. मी. से अधिक दूरी के परिवहन की दशा में 6° सें. ग्रे. से अनधिक तापमान बनाए रखने के उपयुक्त प्रबंध किए जाएंगे।

हिमशीतल विद्युत्तरोधी/रेफ्रिजरेटिड जैन ले जाया जाएगा। शव/मांस का तापमान 8° से. ग्रे. से अधिक नहीं किया जाएगा।

(2) डिब्बों को ले जाने वाले वाहन निम्न शर्तों को पूरा करेंगे।

(क) सभी अन्तर्राष्ट्रीय फिनीशिम प्रतिरोधक पदार्थ से बने होंगे जो अधुलनशील एक सार होंगे तथा सफाई करने के लिए सुविधाजनक होंगे तथा संक्रामक रहित होंगे। जोड़ तथा दरवाजे इस प्रकार सील किए हुए होंगे जो संक्रामक कीटाणुओं का प्रवेश वर्जित करेंगे।

इसका डिजाइन और उपकरण इस प्रकार के होंगे जो परिवहन की सम्पूर्ण कालावधि में अपेक्षित तापमान को बनाए रखेंगे। जहां परिवहन शीतित अवस्था में है वहां तापमान सूचक की वांछनीय व्यवस्था की जाएगी। अगर स्वचालित युक्ति की व्यवस्था नहीं है तो नियमित अंतराल में इसका तापमान लिया जाएगा। सूचकांक को एक लागवुक में अभिलिखित किया जाएगा।

(ग) प्रसंस्कृत मांस उत्पादों को लाने ले जाने तथा रखने के लिए आशयित यान इस प्रकार से सुसज्जित होंगे जिससे की उत्पाद फोलिएफोलीवर से किसी प्रकार से संक्रामित न हो सके।

(घ) प्रसंस्कृत मांस उत्पाद किसी ऐसे परिवहन के साधनों से नहीं लाया जाएगा जिसका उपयोग जीवित पशुओं को ले जाने के लिए किया जाता है।

(ङ.) प्रसंस्कृत मांस उत्पादों के अन्य माल की भांति परिवहन के ऐसे साधनों का प्रयोग नहीं किया जाएगा जिससे इस उत्पाद पर प्रतिकूल प्रभाव पड़ सकता है।

(च) प्रसंस्कृत मांस उत्पाद परिवहन के ऐसे साधनों में नहीं ले जाया जाएगा जो कि साफ नहीं हैं। इसे साफ कर लिया जाएगा तथा लदान में पूर्व संक्रामण रहित कर दिया जाएगा।

13. निरीक्षण का आधार :- नियमित के लिए आशयित कुन मांस उत्पाद का निरीक्षण इस दृष्टि से किया जाएगा वह अधिनियम की धारा 6 के अधीन केन्द्रीय सरकार मान्यताप्राप्त विनिर्देशों के अनुरूप है जैसा कि इन में की अनुसूची II में II/में दिया गया है।

14. निरीक्षण के लिए आवेदन :- प्रसंस्कृतमांस उत्पादों न्याय करने का इच्छुक निर्यातकर्ता निर्यात किए जाने परेषण का पूर्ण विवरण देते हुए आवेदन अभिकरण निकटतम कार्यालय को देगा।

15. नमूना लेने की समय सीमा :- अभिकरण नियमितता से आवेदन प्राप्त होने की तारीख से पांच कार्य दिवसों के भीतर नमूना लेगी।

16. पशु चिकित्सा स्वास्थ्य प्रमाण-पत्र जारी होना :- नियम 14 के अधीन आवेदन प्राप्त होने पर अभिकरण किए गए निरीक्षण के आधार पर अपना यह समाधान कर लेने पर कि परेषण, इस पर लागू मानक विनिर्देशों के अनुसार प्रसंस्कृत किया गया है और पैक किया गया है तो वह यह घोषण करते हुए एक पशु चिकित्सा स्वास्थ्य प्रमाण-पत्र जारी करेगा कि प्रसंस्कृत मांस उत्पादों का परेषण मानव उपभोग के लिए उपयुक्त है तथा निर्यात योग्य है। अभिकरण के लिए पर्यवेक्षण निरीक्षण तथा इन नियमों का अनुपालन करना विधिपूर्ण होगा।

17. पशु चिकित्सा स्वास्थ्य प्रमाण-पत्र जारी करने से इन्कार करना :- जहां अभिकरण प्रसंस्कृत मांस उत्पादों की क्वालिटी से संतुष्ट नहीं है वहां वह ऐसे प्रमाण-पत्र देने से इन्कार कर देगा। अन्य रूप से पैक मांस उत्पादों की दशा में ऐसे इन्कार किए जाने की संसूचना उसके कारणों सहित निर्यातकर्ता को नमूना लेने के पांच दिनों के भीतर दी जाएगी।

18. चैक निरीक्षण :- प्रमाणीकरण के पश्चात अभिकरण को परेषण की क्वालिटी का भण्डारण या अभिवहन के दौरान या पत्तन पर पुनः निर्धारण का अधिकार होगा। यदि किसी भी स्तर पर मानक विनिर्देशों के अनुरूप नहीं पाया जाता है तो मूलतः दिया गया प्रमाण-पत्र वापिस ले लिया जाएगा।

19. पशु चिकित्सा प्रमाण-पत्र की वैधता :- संमुद्रित सीलबन्द आधानों में पैक किया गया डिब्बा बन्द प्रसंस्कृत मांस के मामले में पशु चिकित्सा स्वास्थ्य प्रमाण-पत्र परेषण के पाम होने की तारीख से 180 दिनों की अवधि तक के लिए और अन्य उत्पादों के मामलों में 30 दिन तक के लिए वैध होगा। यदि एक आवेदन में भिन्न-भिन्न तारीखों पर अनु-मोदित एक से अधिक परेषण प्रस्तुत किए गए हैं तो प्रमाण-पत्र की वैधता अनुमोदन की पूर्वतम तारीख से अभिलिखित की जाएगी।

20. पशु चिकित्सा स्वास्थ्य प्रमाण-पत्र की पुनः विधि मान्यता :- यदि परेषण निरीक्षण प्रमाण-पत्र की वैधता की अवधि के भीतर पोत पर लादा नहीं जाता है तो निर्यातकर्ता को पुनः विधिमान्यकरण का प्रमाण-पत्र प्रस्तुत करने की अनु-मति दी जाएगी। ऐसे मामलों में संमुद्रित सीलबन्द आधानों में पैक किए गए डिब्बा बन्द प्रसंस्कृत मांस उत्पादों की दशा में वैधता की अवधि 90 दिन की और अवधि के लिए बढ़ा दी जाएगी और अन्य प्रकार से पैक किए गए उत्पादों के मामले में विधिमान्यकरण की अवधि 15 दिन की ही होगी।

21. अपील :-

(1) ऐसा कोई व्यक्ति जो पशु चिकित्सा स्वास्थ्य प्रमाण पत्र जारी किए जाने से अभिकरण के इंकार किए जाने से व्यथित हो वह ऐसे इंकार किये जाने की संसूचना प्राप्त होने के पन्द्रह दिन के भीतर अध्यक्ष, कृषि और प्रसंस्कृत खाद्य उत्पाद निर्यात विकास प्राधिकरण द्वारा रस प्रयोजन के लिए नियुक्त न्यूनतम तीन परन्तु सात से अधिक व्यक्तियों के विशेषज्ञों के समक्ष की अपील कर सकेगा।

(2) ऐनल की गणपूर्ति तीन से होगी।

(3) अपील, प्राप्त होने के पन्द्रह दिन के भीतर निपटा दी जाएगी।

[फाइल नं. 6/3/92-ई आई एण्ड ई पी]

कुमारो सुमा मृद्वणा, निदेशक

New Delhi, the 22nd September, 1995

S.O. 2681.—In exercise of the powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following Rules, namely :—

1. Short title and commencement.—(1) These Rules may be called the Export of Processed Meat Products (Quality Control and Inspection) Rules, 1995.

(2) They shall come into force on the date of their final publication in the Official Gazette.

2. Definition.—In these rules, unless the context otherwise requires,—

(a) "Act" means the Export (Quality Control and Inspection) Act, 1963 (22 of 1963);

(b) "Agency" means any agency for quality control or inspection or both, established or recognised under section 7 of the Act;

(c) "Animal" means a livestock belonging to any of the following species namely :—

(a) Buffalo;

(b) Sheep;

(c) Goat.

(d) "Boneless meat" means dressed meat which is from tendons, bones, cartilages and seperable nerves;

(e) "Carcass" means the slaughtered body of an animal or any part thereof including viscera;

(f) "Canned Meat Products" means meat products packed in hermetically sealed containers which have been heat treated after sealing to such an extent that the product is shelf-stable;

(g) "Chilled" means that the core temperature of carcass, cuts or mince which does not exceed 4 degrees celsius at any stage;

(h) "Corned beef" means chopped, cured or boneless carcass meat of buffalo and shall include head meat, heart meat and skirtmeat;

(i) "Cuts" means meat obtained from dressed carcass and boneless meat;

(j) "Edible Offal" means such offals and poultry skin as are fit for human consumption including lungs but not of the animal from which the lungs have been taken has been scalded by immersion in hot

water, excluding cans, scalp, snouts but including lips and muzzle, mucous membrane, sinews, genital system, udder, intestines and urinary bladder;

(k) "Halves" means sawed/chopped carcass divided into two equal halves splitting through the centre of the back bone or removing the back bone by cutting through the transverse process of the vertebrae;

(l) "Hermetically sealed container" means a container which is completely sealed, rigid and impermeable and is made of any appropriate material suitable for the product;

(m) "Inspecting Officer" means a qualified veterinarian of the Central Government, State Government, Local Bodies or any officer suitable for the purpose appointed or recognised by the Agency;

(n) "Lean" means meat free from separable fat.

(o) "Luncheon meat" means comminuted and cured meat and shall include edible offal or poultry meat, heat treated and packed to ensure that the product presents no public health hazard and remains wholesome under the conditions of storage and transport;

(p) "Meat" means the edible part of an animal including edible offal of buffalo, sheep and goat;

(q) "Minced meat" means comminuted meat of uniform grains obtained from boneless meat of buffalo, sheep or goat;

(r) "Net weight" means weight of Processed Meat when packed but does not include weight of the container and packing material;

(s) "Packaged" means packed in a container manufactured of materials which will not contaminate or interfere with quality of meat products under normal conditions of handling;

(t) "Poultry" means domesticated birds, including chickens, turkeys, ducks, geese, guinea-fowls, pigeons and quails;

(u) "Quarters" means the fourth part of Carcass or the cut sides of a Carcass derived from halves and generally categorised as fore and hind quarters;

(v) "Schedule" means a schedule appended to these rules.

(w) "Slaughter" means killing of an animal for food employing a humane method not inconsistent with the provisions of the prevention of cruelty to Animals Act, 1960 (54 of 1960) in a licensed slaughter house where the animal is subjected to thorough ante-mortem and post-mortem examinations;

(x) "Slaughter house or abattoir" means any premises which is authorised by the local authority for slaughter of animals intended for human consumption.

3. Quality Control and Inspection.—The quality control of Processed Meat intended for export shall be carried out with a view to ensuring that the same conforms to the specifications recognised by the Central Government, under Section 6 of the Act.

4. Requirement of an Abattoir.—For the purpose of assuring the quality of Processed Meat for exports it shall be ensured that the abattoir where the animals are slaughtered shall meet the following requirements:

(a) All abattoirs servicing raw material requirements of the industry for meat for export and in existence as on the date of commencement of the rules shall comply with the requirements stipulated in IS 4393 — 1979 'Basic requirement for an abattoir'.

(b) The abattoirs or slaughter houses constructed after the date of the notification of these rules and unless for purposes of securing raw material for export of meat shall comply with the requirements of IS 4393—1979.

(c) Where after the date of notification of these rules, abattoirs or slaughter houses are constructed for purposes of source of meat for export and these are in conformity with any accepted international standards for abattoirs, such units shall not be required to comply with IS standards mentioned above and shall be eligible for licensing on the basis of compliance with any other accepted international standards.

(d) In the case of existing abattoirs which do not meet with the requirements of clause (a) at present, they shall have to conform to the requirements within a period of three years from the date of commencement of these rules. Till such time, the existing abattoirs shall meet the requirement stipulated in schedule-V.

5. Conditions for Ante-Mortem and Post-Mortem Inspection.—The animals shall be subject to ante-mortem and post-mortem inspections by qualified veterinarians.

6. Storage.—(1) The Carcass halves/quarters shall be hung in the chill room in such a way that they will be at least 30 centimeter from the ceiling, 10 centimeter from the walls and 10 centimeters from the floor.

(2) Processed Meat Products shall be stored in such a way that it will preclude the contamination with proliferation of micro-organisms and protect against deterioration of the product or damage to the container. During periodic inspection of the Processed Meat Products, the agency shall ensure that the products which are fit for human consumption are dispatched and that end product specification should be complied with when they exist. It shall be dispatched in the sequence of the lot numbers.

(3) Facilities meeting hygienic requirements for storing the containers used for Processed Meat Products in such a way that neither the products nor the containers come into direct contact with the ground.

(4) The following provisions shall apply where Processed Meat Products are placed in chilling rooms namely :—

- (a) Entry should be restricted to personnel necessary to carry out operations efficiently.
- (b) Doors shall not be left open for extended periods and shall be closed immediately after use.
- (c) Containers holding Processed Meat Products shall not be stacked directly on the floor.
- (d) Where refrigeration equipment is not manned, auto into large containers to prevent deterioration of the central part of the product. Rapid cooling down of all packages of Processed Meat Products and maintaining non-shelf stable Processed Meat Products at chill temperature are essential. They shall be placed on pallets or on dunnage in such a way that there is adequate air circulation.
- (e) No chilling room shall be loaded beyond its designated capacity.
- (f) Where refrigeration equipment is not manned, automatic temperature recorders should be installed. If no automatic device is installed, temperature shall be read at regular intervals and the readings shall be recorded in a log book.

7. Sanitary and other requirement of Meat Processing Plant.—The premises shall be fit for processing unit approved and registered by the local authority.

7.1 The premises shall not be located in an area subjected to frequent flooding.

7.2 All yards, out houses, stores and all approaches to the factory shall always be kept clean and in sanitary condition.

7.3 The road within the premises shall be metalled.

7.4 The premises shall be located in a sanitary place, wherever marine products, fruits and vegetable are handled in

the same area, the premises where meat is processed shall be adequately partitioned from the premises where these products are processed or leave a gap of seven days between different processings in case they are carried out in the same processing hall.

7.5 It shall exclude the entry of dogs, cats, rodents, insects, flies, crows, bats and vultures. The use of poisons or baits is carried out or any packed product is stored.

7.6 The premises shall be so constructed and maintained as to permit hygienic processing and dressing. All operations in connection with the processing or packing of carcass meat products shall be carried out under strict hygienic conditions and under the supervision of the qualified veterinarians of the Central Government or Agency. Meat Products shall not come in contact with floors, walls or other structures except those which are specially designed for contact with meat products. No portion of the processing area shall ever be used for living or sleeping purposes unless it is separated from the processing/dressing area by a wall.

7.7 All the parts of the authorised premises shall always be kept clean, adequately lighted, (the intensity should be 220 Lux in work rooms and shall 550 Lux in inspection areas) and ventilated and shall be regularly cleaned, disinfected and deodorised. The premises should provide adequate working space for the satisfactory performance of all operations. The flooring shall be impervious, non slippery and washed daily with disinfectant. The floor should slope sufficiently for liquids to be drained off to trapped outlets protected by a grill except in rooms where meat and meat products is frozen or stored frozen. Lime washing, colour washing or painting, as the case may be, shall be done at least once a year. The dates when this is to be undertaken shall be intimated in advance to the Agency to facilitate verification and inspection. The floors, walls, ceilings, partitions, doors and other part of all structures shall be of such material, construction and finish that they can be readily and thoroughly cleaned. The walls shall be tiled with white glazed ceramic tiles upto a height of 1.5 meters to enable washing with hot water and chemical disinfectants. Alternatively, suitable coating or hygienic panels may be used instead of ceramic. The walls shall be free from cracks crevices and dampness.

7.8 All plant areas utilised for processing of meat shall be appropriately protected against ingress of flies.

7.9 The ceiling shall be of permanent nature and prevent accumulation of dirt and minimize condensation mould development and flaking and should be easy to clean, wherever stairs are there, they should be constructed with such material which can be cleaned easily and effectively, should have side curb with a minimum height of 15 centimeters.

7.10 The processing area shall be free from cobwebs and spiders.

7.11 The rooms and compartments in which the meat is processed or stored shall be free from dust and odour emanating from the dressing rooms, toilets catch basins by products storage, animal pens.

7.12 The equipment shall be so placed as to permit thorough inspection for cleanliness. All the tables and equipments used for dressing of carcasses and preparation of meat products shall be of such material which can be easily cleaned sterilised and is impervious to water, resistant to chemicals and rust, smooth. Equipments and utensils used for edible or condemned materials should be so identified and should not be used for edible meat and meat products. No vessel or container for storage of meat and meat products made up of galvanised iron or iron shall be used except meat freezing trays which may be of galvanised iron. Copper or brass vessels when used should be heavily tinned. Use of wooden equipment structures in the processing area shall be avoided. Wooden chopping blocks and wooden handles or knives which when used shall be daily washed with hot water or steam sterilised. The wooden chopping blocks shall be strong enough to withstand chopping and shall not contaminate the meat with wood dust.

7.13 The processing area shall not be used for processing of any material other than meat of the same species without approval of the Agency.

7.14 All drainage and plumbing system shall be designed for efficiency and adequacy having regard to the through out put of the plant and all drains and gutters shall be permanently installed. The drainage system of the processing unit shall not be connected with in the processing building with the drains receiving effluent materials from the toilets or animal pens. Manholes will be leakproof to avoid back flow of the waste matter due to blockage.

7.15 The entry to the processing area shall be restricted and process workers from slaughter house or by-products section shall not be allowed to enter the clean area that is processing or packing area. For easy identification the uniforms of workers of the clean area shall be different from those of workers in other areas.

7.16 All activities relating to meat processing and having requirements of the use of water shall be supported by access to adequate clean and potable water. The water to be utilised in the plant for processing related activities shall be subjected to regular testing and the plan shall have adequate arrangements for such testing. If upon testing, water which is to be poured is unwholesome or non-potable, the fact shall be reported to the authorities responsible for the supply and if it is from processors' own sources then processor shall take all necessary steps to render the water wholesome and potable.

7.17 Wash basins with ample detergent and harmless anti-septic solution, preferably with foot operated facets having water supply shall be provided at each entry and exit points.

7.18 Ample supply of water shall be provided for the workers and for keeping the plant clean. Tables, hand saws, knives, steels, cleavers knife pouches containers for storage or meat shall be washed thoroughly with detergent solutions and hot water. Hot water at 82°C and above should be available for sterilisation of knives and other cutting tooth equipment. If non potable water is used for producing of steam or for refrigeration or fire control or any other purpose unconnected with processing, then such water should be carried in completely cross connection or back siphonage with the lines carrying potable water supply.

7.19 No person having any open wound on the hands shall be allowed to work in the processing area. No person suffering from infections or contagious disease shall be allowed to enter the premises. Annual medical check up of all the employees shall be carried out by a registered medical practitioner with a minimum MBBS qualification. A record of such examinations duly signed by a registered medical practitioner shall be maintained and presented to the inspecting officer as and when desired by him. Overcrowding of employees in the processing area shall be avoided by providing working table at sufficient distance from each other.

7.20 Spitting and chewing and smoking shall be prohibited in the processing area.

7.21 The finger nails and hairs shall be properly trimmed or covered. Combing of hair in processing area and cleaning and blowing of nose shall be prohibited in the processing area.

7.22 All process workers shall be provided with aprons head wear, hand gloves and footwear of such material which can be easily cleaned and disinfected. The supervisory staff shall ensure that the same are properly cleaned and the workers are neat, clean and tidy. Adequate, suitable and conveniently located changing facilities should be provided.

7.23 The authorised premises shall have adequate cold storage facilities.

7.24 The cold storage (chilling room, freezing room, freezer store) shall be licenced premises. Temperature recorder of the cold storage shall be maintained and retained for one year.

7.25 All external accesses to the processing area shall be provided with antiseptic foot bath for persons entering the processing area.

7.26 Wherever five or more employees of either sex are employed a sufficient number of lavatories and wash basins for each sex as specified below shall be provided.

	Number of Laterines	Number of Urinals	Number of wash basins	Number of Bath Rooms
1. Not exceeding 25	1	2	1	1
2. Exceeding 25 but not exceeding 49	2	4	2	2
3. Exceeding 50 but not exceeding 100	3	6	3	3
4. Exceeding 100 and above	5	10	5	5

These shall be situated away from the processing halls and arrangements shall be made for their daily disinfection. The main door to the lavatories shall be fly-proof and netted with self-closing doors. Adequate changing room facilities shall also be provided.

7.27 Exhaust fans shall be provided wherever necessary.

7.28 Trolleys used for transportation of the waste be marked to identify them from those which shall be exclusively used for the transportation of carcass meat and meat products.

7.29 Waste material should be handled in such a manner as to exclude contamination of food or potable water. Precaution should be taken to prevent access to waste by pests. Waste should be removed from the meat and meat products handling and other working areas at regular intervals and at least once a day. Waste receptacles used for storage and equipment which have come into contact with the waste should be cleaned and disinfected. At least once a day in a week the waste storage area also should be cleaned and disinfected.

7.30 All the processing area and equipments shall be cleaned and disinfected after each days' work.

7.31 A definite time schedule shall be adopted for cleaning and sanitizing and chilling room.

8. Method of Sampling and Testing—The inspection of processed Meat Products meant for export shall be done by drawing samples wherever as per instructions contained in Schedule I to these rules and testing the same with a view to seeing that the consignment conforms to the standard specifications.

9. Place of Inspection—The inspection of processed Meat products for the purpose of these rules shall be carried out at the premises of the processor or manufacturer who shall provide all necessary facilities to the agency to carry out such inspection.

10. Inspection Fee—Inspection fee shall be paid to the agency at the rate of Rs. 0.15 per tin/package of 1 kilogram or part thereof subject to a minimum of Rs. 100 per consignment of processed Meat.

11. Instructions of Agency—Regarding sanitation in the premises, cleanliness of personnel and equipment, operational procedures, method of sampling, testing packaging, marking and inspection of processed meat at all stages and maintenance of records thereof, all instructions issued from time to time by the Council and compatible with these rules shall be adhered to.

12. Conditions for Transportation of Carcasses Processed Meat Products—(1) The conditions stipulated in column (2)

of the following table are to be followed for transportation of carcasses Meat depending upon type of meat :—

Type of Meat	Specifications for transport
(1)	(2)
Fresh	Vehicles fully covered with impervious flooring and side walls in case of transport over distance exceeding 100 kilometers suitable arrangement shall be made to maintain a temperature not exceeding 6°C.
Chilled	Transported in refrigerated/insulated vans. In case of transport over distance exceeding 100 kilometers suitable arrangement shall be made to maintain a temperature not exceeding 6°C.
Frozen	Transported in insulated/refrigerated vans. The temperature of the carcass meat shall not go above minus 8°C.

(2) Means of transport of containers shall comply with the following conditions :—

- All internal finishes shall be made of corrosion resistant material, be smooth, impervious and easy to clean and disinfected. Joints and doors shall be sealed so as to prevent the entry of pests and other sources of contamination.
- The design and equipment should be such that the required temperature can be maintained throughout the whole period of transport. Where transport is under refrigeration, it is desirable to install temperature recorders, if no automatic device is installed, temperature shall be taken at regular intervals and the reading shall be recorded in a log book.
- Vehicles intended for the transport or processed Meat product shall be equipped in such a way that the product do not come into contact with the floor.
- Processed Meat Products shall not be carried in the any means of transport which is used for conveying live animals.
- Processed Meat Products shall not be carried in the same means of transport as other goods in a way which may adversely affect the products.
- Processed Meat Products shall not be placed in any means of transport which are not clean. It shall be cleaned and disinfected before loading.

13. Basis of Inspection—Inspection of processed Meat Products intended for export shall be carried out with a view to seeing that the same conforms to the specifications recognised by the Central Government under Section 6 of the Act as set out in the Schedule II to IV to these rules.

14. Application for Inspection—An exporter intending to export processed Meat Products shall submit an application giving particulars of consignment intended to be exported to the nearest office of the agency.

15. Time limit for Drawal of Samples—The agency shall draw samples within five working days from the date of receipt of application from the exporters.

16. Issue of Veterinary Health Certificates.—On receipt of the applications under rule 14, the agency on satisfying itself on the basis of inspection carried out that the consignment has been processed and packed according to the standard specifications applicable to it, shall issue Veterinary Health Certificate declaring the consignment of processed Meat Products as fit for human consumption and export-worthy. It shall be lawful for the agency to supervise, oversee and secure compliance of these rules.

17. Refusal of issue Veterinary Health Certificate—Where the agency is not satisfied with the quality of processed meat products, it shall refuse to issue the certificate. Such refusal alongwith the reasons thereof, shall be communicated to the exporters within a period of five days of drawal of samples.

18. Check Inspection—Subsequent to certification, The agency shall have the right to re-assess the quality of the consignment in storage or in transit or at the ports. In the event of consignment being found not conforming to the standard specification, at any of these stages the certificate originally issued shall be withdrawn.

19. Validity of Veterinary Health Certificate.—The Veterinary health certificate shall be valid for a period of 180 days from the date of passing of the consignment in the case of processed meat packed in hermetically sealed containers and for a period of 30 days in the case of other products. If more than one consignment approved in date rent days is presented in one application, the validity of the certificate shall be reckoned for the earliest date of approval.

20. Re-Validation of Veterinary Health Certificate—If the consignment is not shipped within the period of validity of the inspection certificate, the exporter shall be permitted to present the certificate for re-validation. In such cases, the validity shall be extended for a further period of 90 days in the case of processed meat product packed in hermetically sealed containers and 15 days in the case of other packed product. No further revalidation shall be permitted, thereafter without reinspection.

21. Appeal—Any person aggrieved by the refusal of the agency to issue veterinary health certificate may within fifteen days of receipt of the communication of such refusal by him, prefer an appeal to a panel of experts consisting of not less than three but not more than seven persons appointed for the purpose by Chairman, Agricultural and Processed Food Products Export Development Authority.

(2) The quorum of the panel shall be three.

(3) The appeal shall be disposed of within fifteen days on its receipt.

[F. No. 6/3-92-LI&EP]
KUM. SUMA SUBBANNA, Director

सार्वजनिक पूर्ति, उपभोग्यता सामानों और सार्वजनिक वितरण संस्थान

भारतीय मानक ब्यूरो

नई दिल्ली, 18 सितम्बर, 1995

का.प्रा.2682.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि जिन प्रमाणन मंहर लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं उनकी अवधि समाप्त हो गई है :

अनुसूची

क्रम सं.	लाइसेंस सं. सी एम/एल	लाइसेंसधारी का नाम व पता	आई एस : सं.	अवधि समाप्ति की तिथि	समाप्ति का कारण
1	2	3	4	5	6
1.	0078845	जमना आटो इंडस्ट्रीज, जे.एस.ए. रोड, इंडस्ट्रियल एरिया, यमुना नगर-135001	आई एस 1135 : 1984	93-12-16	लाइसेंसधारी इच्छुक नहीं
2.	0137835	प्राइमर केमल क. लि., पोस्ट बाक्स नं. 1849 एम जी रोड, एन.कुलम, कोचीन 682 016	आई एस 1554 (भाग 1) : 1988	92-12-31	लाइसेंसधारी इच्छुक नहीं
3.	0156233	जीडोनेल इंडस्ट्रीज (इंडिया) प्रा. लि., 20, स्टैंडर्ड रोड, कलकत्ता-700001	आई एस 10 (भाग 4) : 1976	93-11-01	प्रार्थनापत्र प्राप्त नहीं हुआ
4.	0348949	हिन्दुस्तान कापर लि., इंडस्ट्री हाउस, 10 कामक स्ट्रीट, कलकत्ता 700017	आई एस 410 : 1977	93-07-15	लाइसेंसधारी इच्छुक नहीं
5.	0363743	स्टील कामप्लेक्स लि., विस्को मनोर, फरीक 673631 कालीकट	आई एस 6914 : 1978	93-06-30	प्रार्थनापत्र प्राप्त नहीं
6.	0363844	स्टील कामप्लेक्स लि., विस्को मनोर, फरीक 673631 कालीकट	आई एस 6915 : 1978	93-06-30	प्रार्थनापत्र प्राप्त नहीं हुआ
7.	0443337	म. सूरिकोरन अककली केमिकल, एण्ड फर्टिलाइजर लि., पो. बा. नं. 468, 86 बुनामबूकारा स्ट्रीट, तिरुविरावल्ली, पिन 620 008	आई एस 561 : 1978	93-12-31	लाइसेंसधारी इच्छुक नहीं
8.	0478356	जे. जे. इंडस्ट्रीज (इंडिया), देवीदास रोड, भगवान दास बिल्डिंग, महागिरी, थाने 600 402	आई एस 5346 : 1975	93-12-15	लाइसेंसधारी इच्छुक नहीं
9.	0495558	महावीर एक्सपोर्ट एण्ड ट्रांसपोर्ट क., जी.टी. रोड, मोहन नगर, गाजियाबाद (उ.प्र.)	आई एस 1520 : 1980	94-02-22	इच्छुक नहीं
10.	0582755	बिरला जूट एण्ड डड. लि., यमित. सोराह जूट मिल्स, बिरला बिल्डिंग, 9/1 प्रार. एन. मधुर्जी रोड, कलकत्ता-700 001	आई एस 2580 : 1982	94-01-15	लाइसेंसधारी इच्छुक नहीं
11.	0683357	बी. डी. खेतान एड क., भीनागढ़, पो. ओ. राहपुर, बाया महेण्टाला, जिला 24 परगना	आई एस 562 : 1978	93-12-31	लाइसेंसधारी इच्छुक नहीं
12.	0737353	कस्तूरी पेपर फूड एण्ड केमीकल लि., 283-284 ओल्ड बागमपेट, बंगलूर 560 053	आई एस 1320 : 1988	93-11-30	लाइसेंसधारी इच्छुक नहीं

1	2	3	4	5	6
13. 0784565	यूनिवर्सल ट्रेडिंग कं., गिरिराज 5 वी मंजिल, 73 सत तुकाराम रोड, बंबई 400 009	आई एस 1786 : 1985	93-12-31	लाइसेंसधारी इच्छुक नहीं	
14. 0808755	चमेली मीटर्स, 1ई (4) लक्ष्मीनगर मेन रोड, तिरुपुर 633 602	आई एस 4964 : 1980	93-10-31	लाइसेंसधारी इच्छुक नहीं	
15. 0814447	यू. के. पेंट्स इंडस्ट्रीज, 19 डी बी ए कमर्शियल कॉम्प्लेक्स, कलाश कालोनी एक्सटेंशन, जमशेदपुर नई दिल्ली 110048	आई एस 5660 : 1970	94-02-08	अनइच्छुक	
16. 0848060	अमृत स्टील लि., चन्द्रलोक बिल्डिंग, (प्रथम तल), बेस्ट बिग 36, जनपथ, नई दिल्ली	आई एस 2830 : 1992	94-02-14	अनइच्छुक	
17. 0848161	अमृत स्टील लि., चन्द्रलोक बिल्डिंग (प्रथम तल) बेस्ट बिग, 36 जनपथ, नई दिल्ली	आई एस 6915 : 1978	94-02-08	अनइच्छुक	
18. 0938465	एरीस एथो पेट इंडस्ट्रीज प्रा. लि., 64ए उद्योग नगर, कानपुर 208 022	आई एस 1664 : 1981	94-02-16	कार्य संतोषप्रद नहीं	
19. 1011111	इडिकले प्लॉट नं. 2, उद्योग नगर, एस.पी. रोड, गोरेगांव (वेस्ट), बम्बई 400 062	आई एस 2569 : 1978	93-09-30	लाइसेंसधारी अनइच्छुक	
20. 1011414	डिम केवल्स (इंडिया), 12 इंडस्ट्रियल एरिया, मेहतपुर, जिला उना-174315	आई एस 694 : 1977	93-12-01	फैक्टरी बंद	
21. 1055131	बल्लभ पेस्टीसाइड्स मैन्यू. कं., आनन्द मुजिन्ना रोड, पोस्ट बाक्स नं. 30, बिठूर उद्योगनगर बल्लभ, विद्यानगर, पिन 388121	आई एस 8074 : 1982	93-11-15	लाइसेंसधारी अनइच्छुक	
22. 1109633	प्राइमर केबल कं. लि., पोस्ट बाक्स नं. 1849 एम जी रोड, एर्नाकुलम, कोचीन 682 016	आई एस 1554 (भाग 2) : 1988	92-12-31	लाइसेंसधारी अनइच्छुक	
23. 1150428	श्रीराम जूट मिल्स लि., 10 सिसव रोड-कलकत्ता	आई एस 7406 (भाग 1) : 1984	94-01-31	लाइसेंसधारी अनइच्छुक	
24. 1153030	अग्रवाल मल्ही स्टील, पटियाला रोड, मुनाम, पंजाब 140 028	आई एस 226 : 1975	94-02-15	फैक्टरी बंद	
25. 1155438	मित्र सेल इंडस्ट्रीज, दिल्ली मेरठ रोड, पिन 250 108 (मेरठ)	आई एस 398 (भाग 2) : 1976	94-02-08	अनइच्छुक	
26. 1252537	बालगर नायर एंड कं. लि., साइट बी, मथूरा इंड. एस्टेट, (सम्मुख : मथूरा रिफाइनरी), मथूरा (उ.प्र.)	आई एस 3196 : 1982	93-12-01	कार्य संतोषप्रद नहीं	
27. 1257749	व रोड मास्टर इंडस्ट्रीज प्रा. इंडिया प्रा. लि., इंडस्ट्रियल एरिया, राजपुरा 140 401 (पंजाब)	आई एस 6218 : 1971	94-01-01	प्रार्थनापत्र प्राप्त नहीं	
28. 1261740	यूनिवर्सल ट्रेडिंग कं. गिरिराज, 5वी मंजिल, 73 सत तुकाराम रोड, बंबई 400 009	आई एस 2062 : 1984	93-12-31	लाइसेंसधारी अनइच्छुक	

1	2	3	4	5	6
29. 1276652	मल्टी मेटल प्रोडक्ट्स, महा नौमउष रोड, सम्मुख न्यू बम स्टैंड रतनाम (म.प्र.)	आईएस 9080 : 1979	94-02-08	मनईष्टुक	
30. 1280845	श्री श्रीनिवास सिलिडर्स प्रा. लि., 40 एम जी प्रार साल्ट पालाबकम, मद्रास 600 091	आईएस 3196 : 1982	93-09-15	लाइसेंसधारी मनईष्टुक	
31. 1292041	यूनिटी स्टीलस लि., 413-15 पारादीप सम्मुख कालेज, सयाजीगंज, बड़ोवा 390 005	आईएस 6914 : 1978	92-03-31	लाइसेंसधारी मनईष्टुक	
32. 1327441	पेपर केबल्स कं. लि., पोस्ट बाक्स नं. 1849 एम जी रोड, एनकुलम, कोचीन 682 016	आईएस 7098 (भाग 2) : 1988	92-12-31	लाइसेंसधारी मनईष्टुक	
33. 1348550	पेपर केबल्स कं. लि., पोस्ट बाक्स नं. 1840 एम जी रोड, एनकुलम, कोचीन 682 016	आईएस 7098 (भाग 1) : 1988	92-12-31	लाइसेंसधारी मनईष्टुक	
34. 1351539	एम्बी फोरेस्ट प्रोडक्ट्स प्रा. लि., 9, डा. राजेन्द्र प्रसाद सरणी, (स्लीव राब) कलकत्ता 641009	आईएस 10 (भाग 2) : 1976	93-12-01	प्रार्थनापत्र प्राप्त नहीं	
35. 1365247	डीलक्स फाउंड्री 425, पटेल रोड, कोयम्बतूर 641 009	आईएस 7538 : 1976	94-01-15	मनईष्टुक	
36. 1367958	फोर्टे ग्लोस्टर इंड. लि., 21, स्ट्रेड रोड, कलकत्ता-700001	आईएस 2580 : 1982	94-01-31	मनईष्टुक	
37. 1462043	माइन मिनरल्स लि., कारवार रोड, हुबली 580 024	आईएस 10633 : 1986	93-09-30	सुरांकन फीस नहीं दी	
38. 1551143	रायपुर मल्लाम एण्ड स्टील लि., पी-49, ई.ब. एरिया, सम्मुख : उरकु रा रेलवे स्टेशन, रायपुर 493 221	आईएस 6915 : 1978	94-02-08	मनईष्टुक	
39. 1573153	एस. कु मार डीटरमेन्ट्स प्रा. लि., प्रार जेड 549 सुडका, 22वां मील पत्थर, रोहतास रोड, नई दिल्ली-4	आईएस 4955 : 1982	94-01-28	मनईष्टुक	
40. 1593583	सिंह प्लास्टिक इंडस्ट्रीज, प्लॉट नं. 42 कर्मीचर ब्लाक, कीर्तिनगर, नई दिल्ली।	आईएस 10840 : 1986	94-02-17	मनईष्टुक	
41. 1606041	भारत सीमेंट, भारत फूड इंडिया लि., गांव बेगवार, जिला सिधौ (म.प्र.)	आईएस 269 : 1976	94-02-17	मनईष्टुक	
42. 1622443	बल्लभ पेस्टीसाइड्स मैफे. लि., भानुव सीजिन्ना रोड, पोस्ट बाक्स 30, मिठल उद्योगनगर, बिद्यानगर 388121	आईएस 7948 : 1987	93-11-15	मनईष्टुक	
43. 1627049	टेक्नो केमिकल्स इंडस्ट्रीज लि., 7/980, टाउन हास रोड, कालीकट 672 001	आईएस 2888 : 1988	93-11-30	प्रार्थनापत्र प्राप्त नहीं हुआ	
44. 1627150	मुपरब टेक्स, 2-सी थोल्ड पोस्ट आफिस स्ट्रीट, पी एन रोड, तिरुपुर 638 602	आईएस 4964 : 1980	93-11-30	लाइसेंसधारी मनईष्टुक	

1	2	3	4	5	6
45. 1648865	एस. यू. मोटर्स प्रा. लि., माडस टाउन, बाल राजेश्वरी रोड, मुलुस बम्बई 4000 080	आईएस 8034: 1989	94-01-31	लाइसेंसधारी अनइच्छुक	
46. 1653555	नेशनल एग्री केमिकल्स, सी-2 इंडस्ट्रियल एरिया, पटना 800 013	आईएस 3903: 1984	94-01-31	लाइसेंसधारी इच्छुक नहीं	
47. 1700841	फराक पावर मोटर्स, 334 बी थीम पुर, मेहरीली, नई दिल्ली 110 030	आईएस 2312: 1967	94-02-02	अनइच्छुक	
48. 1749972	बीपक इंडस्ट्रीज, नवयुग इंडस्ट्रियल एस्टेट गली नं. 7, नियर कजीर ग्लास, भगतसिंह कालोनी के सामने अंधेरी ईस्ट, बम्बई 400 059	आईएस 1342: 1986	93-11-15	कार्य संतोषप्रद नहीं	
49. 1771662	सिरोही सीमेंट (प्रा.) लि., टिक्की इंडस्ट्रियल एरिया, सिरोही, सिरोही फोर्ट 307 021	आईएस 269: 1989	94-01-28	रुचि नहीं	
50. 1773161	नेशनल एग्री केमिकल्स, सी-2, इंडस्ट्रियल एरिया, पटना 800 013	आईएस 8028: 1987	94-01-15	लाइसेंसधारी की रुचि नहीं	
51. 1777573	जेकेई इंड्रीज प्रा. लि., सिकन्दरापुर, धनूपगढ़ रोड, धलीगढ़ 202 001	आईएस 2576: 1975	94-01-16	कार्य संतोषप्रद नहीं	
52. 1781362	जेकेई इंड्रीज प्रा. लि., सिकन्दरापुर, धनूपगढ़ रोड, धलीगढ़ 202 001	आईएस 203: 1984	94-02-01	सूत्रांकन फीस नहीं दी	
53. 1793268	नेशनल कोल कोटस (प्रा.) लि., ए-104 घाट 105 इंडस्ट्रियल एरिया, अलवर, भिवाड़ी	आईएस 7809 (भाग 3/खंड 1) : 1975	94-02-21	रुचि नहीं	
54. 1859070	गैमोड इलेक्ट्रिकल्स इंडस्ट्रीज, टा. नं. 333 गली नं. 5, बाग कांडे खान, किशनगंज, दिल्ली 110007	आईएस 1293: 1988	94-02-08	रुचि नहीं	
55. 1874874	श्री श्रीनिवास सिलिडर प्रा. लि. 40एम जी घाट सलाई, पालाबकम, मद्रास 600041	आईएस 3196: 1982	93-09-15	रुचि नहीं	
56. 1896581	घाट सी केमिकल इंडस्ट्रीज, ए-87 बीकला इंड. एरिया, फेस 1, नई दिल्ली 110020	आईएस 4064 (भाग 1) : 1978	94-02-08	रुचि नहीं	
57. 1898184	हुणगी मिल्स क. लि., (यूनिट बनरेली जूट मिल्स), पो. प्रा. धाधुपुर 743128 जिला 24 परगना (वर्धन), पश्चिम बंगाल	आईएस 2818 (भाग 2) : 1971	93-11-15	रुचि नहीं	
58. 1902146	राय बेजीटेल प्रायल इंड., पोस्ट बायस नं. 205, हुनुमान बापा बिल्डिंग, पीपी रोड, बेबभागरी 577002	आईएस 11352: 1985	93-11-15	रुचि नहीं	

1	2	3	4	5	6
59.	1904756	रामू काउण्टरी, पोस्ट बाक्स नं. 6304, प्रविभासी रोड, ए०एम० पलायम, कोयम्बतूर 641 037	आईएम 7538: 1975	93-11-30	रखि नहीं
60.	1909463	संदीप इंडस्ट्रीज, 25, मेताजी सुभाष रोड, समीप के.एम.बी., जालन्धर 144004	आईएम 7711: 1975	93-12-36	प्राप्तता पत्र प्राप्त नहीं
61.	1910549	हुगली मिल्स कं. लि., 10, स्लीप राब, कलकत्ता 700 001	आईएस 7407 (भाग 2): 1980	93-12-15	लाइसेंसधारी की रखि नहीं
62.	1923154	इंडियन पेट्रोल कं., प्लाट नं. 1-ए, सेक्टर सी, इंडियन एरिया, गोविन्दपुरा, भोपाल-462023	आईएम 11995: 1987	94-02-17	रखि नहीं
63.	1930353	एलके स्ट्रिप प्रा. लि., एच-144 प्रमोक बिहार-1, दिल्ली 110052	आईएम 280: 1978	94-02-16	रखि नहीं
64.	1950864	ई प्रार एण्ड कं., चोककंग, जिला बालापुरम (केरल) 678340	आईएस 418: 1978	93-03-15	लाइसेंसधारी इच्छुक नहीं
65.	1995179	कर्नाटक जिक प्रा. लि., 141 बेल गोला इंड. एरिया, के प्रार एस रोड, मेतागली, मैसूर-कर्नाटक राज्य पिन 570016	आईएम 35: 1975	93-06-30	लाइसेंसधारी इच्छुक नहीं
66.	2016934	एक्सप्रेस केबल्स प्रा. लि., उपय भवन, फीजर रोड, पटना-800001	आईएम 398 (भाग 2): 1976	93-08-31	लाइसेंसधारी इच्छुक नहीं
67.	2039441	फाउंड्री एण्ड इंजी. कं., जी टी रोड, समीप रेलवे-कार्मिंग गाजियाबाद-201001	आईएम 1879: 1987	94-02-10	रखि नहीं
68.	2045638	राकेश एण्ड राजेश बायर्स प्रा. लि., 125-126 इंड. एस्टेट, मेहतपुर, जिला ऊना-174315	आईएम 280: 1978	93-11-07	आवेदन प्राप्त नहीं
69.	2050934	केटल फीड प्लांट, ए क्विंट प्राफ राजस्थान को-प्राप., डेयरी फीड लि., नियर लालगढ़, रेलवे स्टेशन, बीकानेर	आईएस 2052: 1979	94-02-22	रखि नहीं
70.	2068145	यू. पी. लेमिनेट्स प्रा. लि., 117/354 जी टी रोड, रावतपुर कानपुर (उ.प्र.)	आईएस 7406 (भाग 2): 1984	94-01-16	रखि नहीं
71.	2076245	पूनाइटेड स्ट्रेमालिमे पम्प प्रा. लि., जी-1/3 जालपवमा, बंगौर नगर, गोरेगांव (पू.) बम्बई-400090	आईएस 8034: 1989	94-01-31	कार्य संतोषप्रद नहीं
72.	2077530	मानोस इंडिया, नियर मोल्ड बुंगो, नूनडी अगरा-282006	आईएम 9020: 1979	93-02-01	लाइसेंसधारी की रखि नहीं
73.	2132633	यूनिवर्सल इंजीनियर्स, 14-मानूषजाल इंड. एस्टेट, समील इंदिरा नगर, अमरावती, अहमदाबाद-380026	आईएस 8034: 1989	93-07-31	लाइसेंसधारी की रखि नहीं

1	2	3	4	5	6
74.	3138344	यूनिवर्सल इजीनियर्स, 14—मानूप ग्रामपाल इंडस्ट्रि स्टेट, समीप इंदिरा नगर, ग्रामरावाड़ी, ग्रहमदाबाद—380026	आईएस 9283:1979	92-07-31	लाइसेंसधारी की रुचि नहीं
75.	2166448	जयलक्ष्मी स्पाय कारपो., 3, पगलाबागा रोड, कलकत्ता—700039	आईएस 3736:1983	93-11-15	लाइसेंसधारी की रुचि नहीं
76.	2168048	हुगली मिल्स कं. लि., (यूनिट बनरेली जूट मिल्स), पो. घो. बाबूपुर—743128 जिला—24 परगना (दक्षिण) (पश्चिम बंगाल)	आईएस 12154:1987	93-11-30	लाइसेंसधारी की रुचि नहीं
77.	2170136	मेश इंडस्ट्रीज, इन्ड्यू जेड 161 बी, गांव बुसधारा, पो. घो. पूसा, नई दिल्ली—110012	आईएस 4246:1984	94-02-08	रुचि नहीं
78.	2177352	बिद्या इंडस्ट्रीज बंगल कंपाउंड, समीप सेलटेक्स प्राक्सि, बांरा (उ. प्र.)	आईएस 694:1977	94-01-01	रुचि नहीं
79.	2177756	एलाउड भारतीटेक्नरल प्रोडक्ट्स, 280 लोकमान्य तिलक मार्ग, सम्मुख : जी. टी. हास्पिटल, रामचण्ड बिल्डिंग, बम्बई—400002	208:1987	93-12-31	रुचि नहीं
80.	2189755	एल बी टिम एण्ड मेटल इंडस्ट्रीज, (यूनिट नं. 2) सिविल रोड, संगर (पंजाब)	आईएस 10325:1989	94-02-01	प्रायोजनापत्र प्राप्त नहीं
81.	2220428	एलाउड भारतीटेक्नरल प्रोडक्ट्स, 280 लोकमान्य तिलक मार्ग, सम्मुख : जी. टी. हास्पिटल, रामचण्ड बिल्डिंग, बम्बई—400002	आईएस 2681:1979	93-12-31	रुचि नहीं
82.	2238649	एलाउड भारतीटेक्नरल प्रोडक्ट्स, 280 लोकमान्य तिलक मार्ग, सम्मुख : जी. टी. हास्पिटल, रामचण्ड बिल्डिंग, बम्बई—400002	आईएस 204 (भाग 2) : 1978	93-12-31	रुचि नहीं
83.	2268658	गांधियाबाद प्लास्टिक (प्रा) लि., के. जे 70, न्यू रवि नगर, गांधियाबाद	आईएस 4984:1987	94-01-28	रुचि नहीं
84.	2291956	वत्सा एण्ड वास गुप्ता, गांव दासवेन, पो. घो. प्रार गोपासपुर, जिला 24 परगना	आईएस 3906 (भाग 1) 1982	93-10-15	रुचि नहीं
85.	2302935	कर्नाटक केमिकल्स इंडस्ट्रीज कारपो. प्रा. लि., (यूनिट II) ए—3 और ए—4 II स्टेज—पीन्या इंड. एस्टेट, बंगलौर—560058	आईएस 12873:1990	93-11-15	रुचि नहीं
86.	2306337	इंडियन एल्युमीनियम कं. लि., अल्फुरास, पो. बा. नं. 30, कालापसेरी, कोचीन—683104	आईएस 7092 (भाग 2) : 1976	93-11-30	अविदेन नहीं
87.	2307339	इंडिया स्टील रोलिंग मिल्स, प्लाट नं. 170 जीआईडीसी, नरोबा, ग्रहमदाबाद—382330	आईएस 1786:1985	92-11-30	लाइसेंसधारी की रुचि नहीं

1	2	3	4	5	6
88.	2317039	खेताव इलेक्ट्रिक लि., प्लॉट नं. 14 सेक्टर 6 फरीदाबाद-121006	आईएस 2082 : 1985	94-01-01	लाइसेंसधारी की रुचि नहीं
89.	2323640	वेल्डन पेंटस एण्ड केमिकल्स (प्रत) लि., ट्रेडनुम कापलेक्स, माइटेनं. 1, प्लॉट नं. 6, बुलंदशहर रोड, इंड. एरिया, गाजियाबाद (उ. प्र.)	आईएस 427 : 1965	94-02-17	रुचि नहीं
90.	2411435	नेत्रा एपो इंडस्ट्रिय प्रो. लि., ए सआईजी-86 तीसरी मंजिल, शाहरी कम्पलेक्स, जोन II, एस. पी. नगर, भीमाल	आईएस 9020 : 1979	94-01-21	रुचि नहीं
91.	5000631	पावरटेक इंजीनियर्स, 382/2 नीलोबल बिरासी, कलकत्ता-700051	आईएस 3549 : 1983	93-11-15	लाइसेंसधारी की रुचि नहीं
92.	90004053	नवनीत इंडस्ट्रीज, तारा बेबी, लिमला	आईएस 2721 : 1979	93-12-01	प्रार्थनापत्र प्राप्त नहीं
93.	9005257	टास्क स्टील (प्रो.) लि., लिक रोड, प्रीत नगर, लुधियाना-144004	आईएस 280 : 1978	93-12-16	प्रार्थनापत्र प्राप्त नहीं
94.	9007160	मोहन पेंट्स, गुरुस मीड रोड, ऐलबाग, लखनऊ-226004 (उ. प्र.)	आईएस 2339 : 1963	94-01-01	लाइसेंसधारी की रुचि नहीं

[सं. के. प्र. वि. 13 : 14]

एस. के. कर्मकार, अपर महानिवेत्तक

MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS & PUBLIC DISTRIBUTION

BUREAU OF INDIAN STANDARDS

New Delhi, the 18th September, 1995

S.O. 2682. — In pursuance of Sub-regulation (6) of Regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1938, it is, hereby notified that the Certification Marks Licences, details of which are mentioned in the following Schedule, have expired :

SCHEDULE

Sl. No.	Licence No.	Name of the licensee	Number of the relevant Indian Standard	Date of expiry	Reason for expiry
1	2	3	4	5	6
1	0078845	Jamna Auto Industries Jai Springs Road, Industrial Area, Yamuna Nagar-135001	IS 1135 : 1984	93/12/16	Party not Interested.
2	0137835	Premier Cable Co. Ltd. Post Box No. 1849, M.G. Road, Ernakulam, Cochin-682 016	IS 1554 (Part 1) : 1988	92/12/31	Party not Interested.
3	0156233	Zeedoneil Industries (India) Pvt. Ltd. 20, Strand Road, Calcutta-700001	IS 10 (Part 4) : 1976	93/11/01	Application not received
4	0348949	Hindustan Copper Ltd. Industry House 10, CAMAC Street, Calcutta-700 017	IS 410 : 1977	93/07/15	Party not Interested

1	2	3	4	5	6
5	0363743	Steel Complex Ltd. WISCO Manor, Feroke-673631 Calicut.	IS 6914 : 1978	93/06/30	Application not received.
6	0363844	Steel Complex Ltd. WISCO Manor, Feroke-673 631, Calicut	IS 6915 : 1978	93/06/30	Application not received.
7	0443337	M/s. Tuticorin Alkali Chemicals & Fertilizers Ltd. P.B. No. 468, 86, Chunnambukkara Steet. Tiruchirapalli-620 008.	IS 561 : 1978	93/12/31	Party not Interested.
8	0478356	J.J. Industries (India) Devidas Road, Bhagwandas Bldg. Mahagiri, Thane-600 402	IS 5346 : 1975	93/12/15	Party not interested.
9	0495558	Mahabir Export & Import Co. (P) Ltd. G.T. Road, Mohan Nagar, Ghaziabad (U.P.)	IS 1520 : 1980	94/02/22	Not Interested.
10	0582755	Birla Jute & Ind. Ltd. Soorah Jute Mill. Birla Building. 9/1, R.N. Mukherji Road, Calcutta-700 001	IS 2580 : 1982	94/01/15	Party not Interested.
11	0683357	B.D. Khaitan & Co. Mainagarh, P.O. Raipur. Via Maheshtala, Distt. 24 Parganas	IS 562 : 1978	93/12/31	Party not interested.
12	0737253	Kasturi Papers Foods & Chemicals Ltd. 283-284, Old Tharagupet P.B. No. 7510, Bangalore-560 053.	IS 1320 : 1988	93/11/30	Party not interested.
13	0784565	Universal Trading Co. Giriraj 5th Floor, 73, Sant Tukaram Road, Bombay-400 009	IS 1786 : 1985	93/12/31	Party not Interested.
14	0808755	Chameli Knitters 1E(4), Lakshmi Nagar Main Road, Tirupur-638 602	IS 4964 : 1980	93/10/31	Party not Interested.
15	0814447	U.K. Paints Industries 19, DDA Commercial Complex, Kailash Colony Extension, Zamrudpur, New Delhi-110 048	IS 5660 : 1970	94/02/08	Not Interested
16	0848060	Amrit Steels Ltd. Chandralok Building, (1st Floor), West iWing 36-Janpath, New Delhi,	IS 2830 : 1992	94/02/14	Not Interested
17	0848161	Amrit Steels Ltd. Chandralok Building (1st Floor) West Wing 36-Janpath, New Delhi	IS 6915 : 1978	94/02/08	Not Interested
18	0938465	Aries Agro-Vet Inds. Pvt. Ltd. 64-A, Udyog Nagar, Kanpur-208 022	IS 1664 : 1981	94/02/16	Unsatisfactory Performance
19	1011111	Indiclay P.lot No. 2, Udyog Nagar, S.V. Road, Goregaon (West) Bombay-400 062	IS 2569 : 1978	93/09/30	Party Not Interested.
20	1011414	Him Cables (India) 12, Industrial Area Mehatpur, Distt. Una-174 315	IS 694 : 1977	93/12/01	Factory Closed

1	2	3	4	5	6
21	1055131	Vallabh Pesticides Mfg. Co. Anand Sojitra Road, Post Box 30 Vithal Udyognagar Vallabh Vidya Nagar-388121	IS 8074 : 1983	93/11/15	Party not Interested.
22	1109633	Premier Cable Co. Ltd. Post Box No. 1849, M.G. Road, Ernakulam, Cochin-682 016	IS 1554 (Part 2) : 1988	92/12/31	Party not Interested.
23	1150428	Shreeram Jute Mills Ltd. 10, Clive Row, Calcutta-1.	IS 7406 (Part 1) : 1984	94/01/31	Party not Interested.
24	1153030	Agarwal Multi Steels Patiala Road, Sunam, Punjab-148 028.	IS 226 : 1975	94/02/16	Factory Closed.
25	1155438	Mitter Sain Inds. Delhi Meerut Road, Rithan -250 013 (Meerut)	IS 398 (Part 2) : 1976	94/02/08	Not Interested
26	1252537	Dalmer Lawrie & Co. Ltd. Site B, Mathura Ind. Estate, (Opp. Mathura Refinery), Mathura (U.P.)	IS 3196 : 1982	93/12/01	Unsatisfactory Performance
27	1257749	The Roadmaster Industries of India Pvt. Ltd. Industrial Area Rajpura-140 401, (Punjab)	IS 6218 : 1971	94/01/01	Application not received.
28	1261740	Universal Trading Co. Gliriraj 5th Floor, 73, Sani Tukaram Road, Bombay-400 009	IS 2062 : 1984	93/12/31	Party not interested.
29	1276652	Multi Metal Products Mhow Neemuch Road, Opp. New Bus Stand Ratlam (M.P.)	IS 9020 : 1979	94/02/08	Not Interested.
30	1280845	Sree Srinivas Cylinders Pvt. Ltd. 40, M.G.R. Salai, Palavakkam Madras-600 041	IS 3196 : 1982	93/09/15	Party Not Interested.
31	1292044	Unity Steels Ltd. 413-15, Paradise, Opp. College, Sayajiganj, Baroda, -390005	IS 6914 : 1978	93/03/31	Party not Interested.
32	1327441	Premier Cable Co. Ltd. Post Box No. 1849, M.G. Road, Ernakulam, Cochin-682 p16	IS 7098 (Part 2) : 1988	92/12/31	Party not Interested.
33	1348550	Premier Cable Co. Ltd. Post Box NS. 1849, M.G. Road, Ernakulam, Cochin-682 016	IS 7098 (Part 1) : 1988	92/12/31	Party not Interested.
34	1351539	Emmbee Forest Products Pvt. Ltd. 9, Dr. Rajendra Prasad Sarani (Clive Row), Calcutta-700 001	IS 10 (Part 2) : 1976	93/12/01	Application not received.
35	1365247	Delux Foundry 425, Patel Road, Coimbatore-641 009	IS 7538 : 1975	94/01/15	Party not interested.
36	1367958	Fort Gloster Inds. Ltd. 21, Strand Road, Calcutta-700 001	IS 2580 : 1982	94/01/31	Party not interested.
37	1462043	Modern Mills Ltd. Karwar Road, Hubli-580 024.	IS 10633 : 1986	93/09/30	Marking Fee not paid
38	1551143	Raipur Alloy & Steel Ltd. P-49, Indl. Area, Opp. Urkura Rly. Station, Raipur, Raipur-493221	IS 6915 : 1978	94/02/08	Not Interested

1	2	3	4	5	6
39	1573153	S. Kumar Detergents Pvt. Ltd. RZ-549, Mundka, 22nd Milestone Rohtak Road, New Delhi-41.	IS 4955 : 1982	94/01/28	Not Interested
40	1593563	Singh Plastic Industries Plot No. 42, Furniture Block Kirti Nagar, New Delhi.	IS 10840 : 1986	94/02/17	Not Interested
41	1606041	Bharat Cements Bharat Food India Ltd. Village Beghwar, Distt. Sidhi (M.P.)	IS 269 : 1976	94/02/17	Not Interested
42	1622443	Vallabh Pesticides Mfg. Co. Anand Sojitra Road, Post Box. 30 Vithal Udyognagar Vallabh Vidya Nagar-388121	IS 7948 : 1987	93/11/15	Party Not Interested.
43	1627049	Techno Chemical Industries Ltd. 7/960, Town Hall Road Calicut-673001	IS 2888 : 1983	93/11/30	Application not received
44	1627150	Superbb Tex 2-C, Old Post Office street P.N. Road, Tirupur-638 602	IS 4964 : 1980	93/11/30	Party not interested.
45	1648865	S.U. Motors Pvt. Ltd. Model Town Bal Rajeshwari Road, Mulund, Bombay-400 080	IS 8034 : 1989	94/01/31	Party not interested.
46	1653555	National Agro Chemicals C-2, Industrial Area, Patna-800 013.	IS 3903 : 1984	94/01/31	Party not Interested.
47	1700841	Frac Power Motors 334-B, Jonapur Mehrauli New Delhi-110 030	IS 2312 : 1967	94/02/09	Not Interested
48	1749972	Deepak Industries Navyog Industrial Estate Gali No. 7, Near Vazir Glass Opposite Bhagatsingh Colony, Andheri East, Bombay-400059	IS 1342 : 1986	93/11/15	Unsatisfactory Performance
49	1771662	Sirohi Cement (P) Ltd. RIICO Industrial Area, Sirohi Sirohi Road, 307021	IS 269 : 1989	94/01/28	Not Interested
50	1773161	National Agro Chemicals C-2, Industrial Area Patna-800 013	IS 8028 : 1987	94/01/15	Party not interested.
51	1777573	Backeye Batteries Pvt. Ltd. Sikandarpur, Anupshahr Road, Aligarh-202 001	IS 2576 : 1975	94/01/16	Unsatisfactory Performance
52	1781362	Backeye Batteries Pvt. Ltd. Sikandarpur, Anupshahr Road, Aligarh-202 001	IS 203 : 1984	94/02/01	Marking not Initiated
53	1793268	Chetna Poly Coats (P) Ltd. A-104 & 105, Industrial Area, Alwar, Bhiwadi.	IS 7809 (Part 3/Sec 1) 1975	94/02/21	Not interested
54	1859070	Gemco Electrical Industries H.No. 383 Gali No. 5, Bagh Kare Khan, Kishan Ganj Delhi-110 007	IS 1293 : 1988	94/02/08	Not Interested
55	1874874	Sree Srinivas Cylinders Pvt. Ltd. 40, M.G.R. Salai, Palavakkam Madras-600041	IS 3196 : 1982	93/09/15	Party Not Interested.

1	2	3	4	5	6
56	1896581	R.C. Chemical Industries A 87, Okhla Indl. Area, Phase-II, New Delhi-110020	IS 3064 (Part 1) : 1978	94/02/08	Not Interested
57	1898484	Hooghly Mills Co. Ltd. (Unit : Waverly Jute Mills) P.O. Athpur-743128, Distt. 24-Parganas (North) (West Bengal)	IS 2818 (Part 2) : 1971	93/11/15	Party not interested.
58	1902146	Ravi Vegetable Oil Inds. Post Box No. 205, Hanuman Thappa Buildings P.B. Road, Devnagore-577002	IS 11352 : 1985	93/11/15	Party not interested.
59	1904756	Ramji Foundry Post Box No. 6304 Avanashi Road, P.N. Palayam, Coimbatore-641037	IS 7538 : 1975	93/11/30	Party not interested.
60	1909463	Sandeep Industries 25, Netaji Subhash Road Near K.M.V. Jalandhar-144004	IS 7711 : 1975	93/12/16	Application not received
61	1910549	Hooghly Mills Co. Ltd. 10, Clive Row Calcutta-700 001.	IS 7407 (Part 2) : 1980	93/12/15	Party not interested.
62	1923154	Indian Pest. Control Co. Plot No. 1-A, Sector-B Industrial Area, Govindpura Bhopal-462023	IS 11995 : 1987	94/02/17	Not Interested
63	1930353	Elkay Strips Pvt. Ltd. H-144, Ashok Vihar-I, Delhi-52.	IS 280 : 1978	94/02/16	Party not interested.
64	1950864	E.R. and Co. Chorukera Distt. Malappuram (Kerala)-678340	IS 418 : 1978	93/03/15	Party not interested.
65	1995179	Karnataka Zinc Pvt. Ltd. 141, Belagola Indl. Area, K.R.S. Road, Metagalli, Mysore, Karnataka State-570016	IS 35 : 1975	93/06/30	Party not interested.
66	2016934	Express Cables Pvt. Ltd. Uday Bhawan, Frazer Road, Patna-800 001	IS 398 (Part 2) : 1976	93/08/31	Party not interested.
67	2039441	Roxy Foundry & Engg. Co. G.T. Road, Near Railway Crossing Ghaziabad-201001	IS 1879 : 1987	94/02/10	Not Interested
68	2045638	Rakesh & Rajesh Wires Pvt. Ltd. 125-126, Indl. Estate, Mehatpur Distt. Una-174315	IS 280 : 1978	93/11/01	Application not received.
69	2050934	Cattle Feed Plant A unit of Rajasthan Co-op. Dairy Fed. Ltd. Near Lalgah Railway Station Bikaner	IS 2052 : 1979	94/02/22	Not Interested
70	2068145	U.P. Laminators Pvt. Ltd. 117/354, G.T. Road, Rawatpur, Kanpur (U.P.)	IS 7406 (Part 2) : 1981	94/01/16	Party not interested.
71	2076245	United Streamline Pumps Pvt. Ltd. G-1/3, Jalpadma, Bangur Nagar, Goregaon (W), Bombay-400090	IS 8034 : 1989	94/01/31	Unsatisfactory Performance

1	2	3	4	5	6
72	2077550	Malloys India Near Old Chungi, Munhai, Agra-282 006 (U.P.)	IS 9020 : 1979	94/02/01	Party not interested.
73	2132633	Universal Engineers 14, Manupunchal Indl. Estate Near Indira Nagar, Amraiwadi, Ahmedabad-380026	IS 8034 : 1989	93/07/31	Party not Interested
74	2138544	Universal Engineers 14, Manupunchal Indl. Estate Near Indira Nagar Amraiwadi, Ahmedabad-380026	IS 9283 : 1979	92/07/31	Party not interested.
75	2166448	Jayalaksmi Supply Corpn. 8, Pagladanga Road, Calcutta-700 039	IS 3736 : 1983	93/11/15	Party not Interested.
76	2168048	Hooghly Mills Co. Ltd. (Unit : Waverly Jute Mills) P.O. Athpur-743128, Distt. 24-Parganas (North) (West Bengal)	IS 12154 : 1987	93/11/30	Party not interested.
77	2170136	Mesh Industries WZ-161 B, Village Dusghara P.O. Pusa, New Delhi-110012	IS 4246 : 1984	94/02/08	Not Interested.
78	2177352	Vidya Industries Bansals Compound Near Sales Tax Office Banda (UP)	IS 694 : 1977	94/01/01	Party not interested.
79	2177756	Allied Architectural Products 280, Lokmanya Tilak Marg, Opp. G.T. Hospital Ramchandra Building Bombay-400002	IS 208 : 1987	93/12/31	Party not Interested.
80	2185755	Ess Dee Tin & Metal Industries Unit No. 2 Sibian Road, Sangrur (Punjab)	IS 10325 : 1989	94/02/01	Application not received.
81	2220428	Allied Architectural Products 280, Lokmanya Tilak Marg, Opp. G.T. Hospital Ramchandra Building Bombay-400002	IS 2681 : 1979	93/12/31	Party not interested.
82	2238649	Allied Architectural Products 280, Lokmanya Tilak Marg Opp. G.T. Hospital Ramchandra Building, Bombay-400002	IS 204 (Part 2) : 1978	93/12/31	Party not interested.
83	2268658	Ghaziabad Plastics (P) Ltd. K.J.-70, New Kavi Nagar, Ghaziabad.	IS 4984 : 1987	94/01/28	Not Interested.
84	2291956	Dutta & Das Gupta Village Dashden P.O. R Gopalpur Distt. 24 Parganas	IS 3906 (Part 1) : 1982	93/10/15	Party not interested.
85	2302935	Karnataka Chemical Industries Corpn. Pvt. Ltd. (Unit II), A-3 & A-4 II Stage, Peenya Indl. Estate Bangalore-560058	IS 12873 : 1990	93/11/15	Party not interested.
86	2306337	Indian Aluminium Co. Ltd. Alupuram, P.B. No. 30 Kalamassery, Cochin-683104	IS 7092 (Part 2) : 1976	93/11/30	Not applied.

1	2	3	4	5	6
87	2307339	India Steel Rolling Mills Plot No. 170 GIDC, Naroda, Ahmedabad-382330	IS 1786 : 1985	92/11/30	Party not inter ested.
88	2317039	Khaitan Electricals Ltd. Plot No. 14, Sector-6, Faridabad-121006	IS 2082 : 1985	94/01/01	Party not inter ested.
89	2323640	Weldon Paints & Chemicals (P) Ltd. Handloom Complex, Site No. 1, Plot No. 6, Bulandshahr Road, Indl. Area, Ghaziabad (UP)	IS 427 : 1965	94/02/17	Not Interested.
90	2411435	Neha Agro Industries Pvt. Ltd. LIG-86, IIIrd Floor, Shabri Complex Zone-II, M.P. Nagar, Bhopal.	IS 9020 : 1979	94/01/21	Not Interested.
91	5000631	Powertech Engineers 392/2, Nilachal Birati Calcutta-7500051	IS 3549 : 1983	93/11/15	Party not interested.
92	9004053	Navneet Industries Tara Devi, Shimla	IS 2721 : 1979	93/12/01	Application not received.
93	9005257	Taska Steels (P) Ltd. Link Road, Preet Nagar Ludhiana-144004	IS 280 : 1978	93/12/16	Application not received.
94	9007160	Mohan Paints Goods Shed Road, Aishbagh, Lucknow-226 004 (U.P.)	IS 2339 : 1963	94/01/01	Party not interested.

[No. CMD/13 : 14]

S.K. KARMAKAR, Addl. Director General

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 1 सितम्बर 1995

का.आ. 2683.—अतः पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 के उपधारा (i) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस अधिसूचना का० आ० सं० 508 तारीख 11-2-95 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइप लाइन बिछाने के लिए अर्जित करने का अपना आशय कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने के बजाय गैस अथॉरिटी ऑफ इंडिया लिमिटेड में सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

वाव-अनुसूची

उ.प्र. पेट्रोकेमिकल परियोजना, पाता

जिला	तहसील	परगाना	मीजा	गाटा संख्या	अर्जित क्षेत्र, एकड़/	अन्य विवरण
1	2	3	4	5	6	7
इटावा	औरैया	औरैया	खानपुर	925	0.15	
			फफूंद	928	0.46	
				932	0.27	
				933	0.48	
				936	0.65	
			कुल		2.01 एकड़	
मानेपुर-फफूंद	औरैया	औरैया	इटावा	9	0.05	
				19	0.24	
				20	0.09	
				22	0.02	
				25	0.19	
				26	0.16	
				27	0.04	
				28	0.15	
				29	0.02	
				32	0.02	
				23(ए)	0.04	
				23(बी)	0.44	
				34	0.07	
			कुल	13	1.53	
इटावा	औरैया	अकबरपुर-टाण्डा		138	0.19	
				139	0.22	
				140	0.06	
				141	0.08	
				146	0.04	
				150	0.18	
				155	0.02	
				168	0.04	
				170	0.23	
				172	0.35	
				177	0.16	
				178	0.22	
				175	0.02	
			कुल योग	13	2.17	

ग्राम	परगना	तह.	जिला	प्लॉट नं.	रकबा (एकड़ में)
चक-साहू	औरैया	औरैया	इटावा	161	0.32
				162	0.03
				164	0.02
				165(ख)	0.06
				165(क)	0.17
				166(ख)	0.02
				167(ख)	0.04
				180	0.61
				कुल	8
गदनपुर	औरैया	औरैया	इटावा	77	0.56
				111	0.06
				112	0.01
				113	0.03
				114	0.24
				115	0.06
				116	0.04
				117	0.08
				118	0.10
				119	0.12
				121	0.18
				122	0.20
				123	0.02
				130	0.28
				131	0.28
				132	0.02
				133	0.02
				135	0.31
				कुल	13
बदुआ	औरैया	औरैया	इटावा	33	0.12
				36	0.15
				37	0.90
				38	0.02
				40	0.16
				41	0.27
				42	0.06
				44	0.01
				45	0.05
				49	0.34
				51	0.09
				53	0.18
				54	0.12
				131	0.02
				132	0.05

ग्राम का नाम	परगना	तहसील	जिला	प्लॉट नं.	रकबा (एकड़ में)
बदुआ	औरैया	औरैया	इटावा	133	0.22
				148	0.01
				149	0.02
				150	0.30
				152	0.02
				153	0.26
				159	0.01
				161	0.01
				164	0.45
				164/460	0.01
				169	0.27
				177	0.01
				178	0.15
				182	0.02
				186	0.02
				178/464	0.08
				187	0.21
				188	0.02
				380	0.07
				393	0.23
				394	0.01
				395	0.10
				396	0.08
				397	0.01
				400 के	0.04
				400केएचए	0.08
				400जीए	0.13
			कुल	42	5.39
धरमपुर	औरैया	औरैया	इटावा	346	0.41
				347	0.02
				358	0.02
				360	0.19
				367	0.19
				369	0.66
				397	0.05
				398	0.03
				399	0.08
				400	0.07
				394	0.60
				404	0.03
				406	0.32
				407	0.27
				422	0.02
				424	0.23

ग्राम का नाम	परगना	तहसील	जिला	गाटा संख्या	रकबा (एकड़ में)
				425	0.20
				426	0.38
				427	0.25
				कुल योग 19	4.02
नगला पाठक	औरैया	औरैया	इटावा	37	0.44
				38	0.02
				39	0.02
				40	0.48
				41	0.44
				42	0.02
				43	0.26
				44	0.15
				70	0.07
			कुल	09	1.90

[सं. एल-14016/17/94-जी.पी.]

अर्धेन्द्र सेन, निदेशक

Ministry of Petroleum and Natural Gas

New Delhi, the 19th September, 1995

S.O. 2683.—Where as by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. 508 dated 11-2-95 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the land specified in the schedule appended to that notification for purpose of laying pipeline;

And whereas the Competent Authority has under Sub-section (1) of section 6 of the said Act, submitted report to the government.

And further whereas the Central Government has, after considering the said report, decided to acquire the right of user in the land specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the schedule appended to this notification hereby acquired for laying the pipeline:

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said land shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Gas Authority of India Limited free from all encumbrances.

SCHEDULE OF LAND

U.P. PETROCHEMICAL PROJECT, PATA

District	Thesil	Pargana	Village	Plot No.	Acquired area in acres	Remarks
1	2	3	4	5	6	7
Etawah	Auraiya	Auraiya	Khanpur PHAPHUND	925	0.15	
				928	0.46	
				932	0.27	
				933	0.48	
				936	0.65	
			TOTAL			5

Village	Pargana	Tehsil	District	Plot No.	Area (in acrs)	Remarks
Manepur- PHAPHUND	Auraiya	Auraiya	Etawah	9	0.05	
				19	0.24	
				20	0.09	
				22	0.02	
				25	0.19	
				26	0.16	
				27	0.04	
				28	0.15	
				29	0.02	
				32	0.02	
				33(A)	0.04	
				33(B)	0.44	
				34	0.07	
				TOTAL	13	1.53
Akabarpur Tanda	Auraiya	Auraiya	Etawah	138	0.19	
				139	0.22	
				140	0.06	
				141	0.08	
				146	0.04	
				150	0.18	
				155	0.02	
				168	0.40	
				170	0.23	
				172	0.35	
				177	0.16	
				178	0.22	
				175	0.02	
				TOTAL	13	2.17
Chak Sahu	Auraiya	Auraiya	Etawah	161	0.32	
				162	0.03	
				164	0.02	
				165KHA	0.06	
				165K	0.17	
				166KHA	0.02	
				167KHA	0.04	
				180	0.61	
				TOTAL	8	1.27
Gadanpur	Auraiya	Auraiya	Etawah	77	0.56	
				111	0.06	
				112	0.01	
				113	0.03	
				114	0.24	
				115	0.06	
				116	0.04	
				117	0.08	
				118	0.10	
				119	0.12	
				121	0.18	

Village	Pargana	Tehsil	Distt.	Plot No.	Area (in acrs)	Area
				122	0.20	
				123	0.02	
				130	0.28	
				131	0.28	
				132	0.02	
				133	0.02	
				135	0.31	
			Total	18	2.61	
Badua	Auraiya	Auraiya	Etawah	33	0.12	
				36	0.15	
				37	0.90	
				38	0.02	
				40	0.16	
				41	0.27	
				42	0.06	
				44	0.01	
				45	0.05	
				49	0.34	
				51	0.09	
				53	0.18	
				54	0.12	
				131	0.02	
				132	0.06	
				133	0.22	
				148	0.01	
				149	0.02	
				150	0.30	
				152	0.02	
				153	0.26	
				159	0.01	
				161	0.01	
				164	0.45	
				164/460	0.01	
				169	0.27	
				177	0.01	
				178	0.15	
				182	0.02	
				186	0.02	
				178/464	0.08	
				187	0.21	
				188	0.02	
				380	0.07	
				393	0.23	
				394	0.01	
				395	0.10	
				396	0.08	
				397	0.01	
				400K	0.04	
				400KHA	0.08	
				400GA	0.13	
			TOTAL	42	5.39	

Distt.	Tehsil	Pargana	Village	Plot No.	Area (in acrs)	Remarks
Etawah	Auraiya	Auraiya	Dharampur	346	0.41	
				347	0.02	
				358	0.02	
				360	0.19	
				367	0.19	
				369	0.66	
				397	0.05	
				398	0.03	
				399	0.08	
				400	0.07	
				394	0.60	
				404	0.03	
				406	0.32	
				407	0.27	
				422	0.02	
				424	0.23	
				425	0.20	
				426	0.38	
				427	0.25	
				TOTAL		
Etawah	Auraiya	Auraiya	Nagla-Pathak	37	0.44	
				38	0.02	
				39	0.02	
				40	0.48	
				41	0.44	
				42	0.02	
				43	0.26	
				44	0.15	
				70	0.07	
TOTAL				09	1.90	Acres

[No. L-14016/17/94-G.P.]
ARDHENDU SEN, Director

स्वास्थ्य और परिवार कल्याण मंत्रालय

एडिपल

नई दिल्ली, 22 सितम्बर, 1995

का.आ. 2684 :- अधिसूचना संख्या ए. 12018/27/93
आर.आर. (एच) दिनांक 9-6-1995 के तहत निर्गत
डा. राम मनोहर लोहिया अस्पताल, नई दिल्ली (वरिष्ठ
निजी सहायक) भर्ती नियम 1995 की अनुसूची में "प्रति-
नियुक्ति पर स्थानांतरण" शीर्ष के अन्तर्गत स्तम्भ 12 की
भद (क) (iii) के सामने की प्रविष्टियों को संशोधित
करके निम्नलिखित रूप में पढ़ा जाए :-

"(iii) 1400-2300/2600 रुपये या तुल्य वेतनमान
के पदों पर 7 वर्षीय नियमित सेवा सहित, और"

[सं. 12018/27/93-आर.आर. (एच)]

लाल सिंह, सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE
CORRIGENDUM

New Delhi, the 22nd September, 1995

S.O. 2684.—Entries against item (a) (iii) of column 12,
under the heading of 'Transfer on deputation' in schedule
to the Dr. Ram Manohar Lohia Hospital, New Delhi
(Senior Personal Assistant) Recruitment Rules, 1995 issued
vide Notification No. A-12018/27/93-RR(H) dated 9-6-1995,
shall be corrected to read as under :—

"(iii) with 7 years' regular service in posts in the scale
of Rs. 1400—2300/2600 or equivalent; and"

[No. A-12018/27/93-RR(H)]

LAL SINGH, Under Secy.

शहरी कार्य और रोजगार मंत्रालय

(दिल्ली प्रभाग)

नई दिल्ली, 20 सितम्बर, 1995

का.आ. 2685 —यतः निम्नलिखित क्षेत्रों के बारे में कतिपय संशोधन, जिन्हें केन्द्रीय सरकार अर्धवार्षिक क्षेत्रों के बारे में दिल्ली बृहद् योजना/क्षेत्रीय विकास योजना में प्रस्तावित करती है तथा जो दिल्ली विकास अधिनियम, 1956 (1957 का 61) की धारा 44 के प्रावधानों के अनुसार दिनांक 12-2-94 के राजपत्र में दिनांक 4-2-94 के नोटिस संख्या एफ 1(7)/80-एमपी द्वारा प्रकाशित किये गये थे जिसमें उक्त अधिनियम की धारा 11-क की उप-धारा (3) में अपेक्षित आपत्तियाँ/सुझाव, उक्त नोटिस की तारीख के 30 दिन की अवधि में आमंत्रित किए गए थे।

यतः प्रस्तावित संशोधनों के बारे में जनता से 2 आपत्तियाँ/सुझाव मिले थे जिन पर प्राधिकरण द्वारा विचार-विमर्श किया गया है।

और यतः केन्द्रीय सरकार ने मामले के सभी पहलुओं पर ध्यानपूर्वक विचार-विमर्श के पश्चात् दिल्ली बृहद् योजना/क्षेत्रीय विकास योजना में संशोधन करने का निर्णय किया है।

अतः, जब केन्द्रीय सरकार उक्त अधिनियम की धारा 11-क की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र में इन अधिसूचना के प्रकाशन की तारीख से दिल्ली की उक्त बृहद् योजना में एतद्वारा निम्नलिखित संशोधन करती है:—

संशोधन:—भारत के राजपत्र के भाग-II, खण्ड-3 उप-खंड (ii) दिनांक 1-8-90 के पृष्ठ-157 पर नर्सरी स्कूल और किन्डर गार्टन स्कूल (080) शीर्षक के अंतर्गत निम्नलिखित जोड़ा जाता है:—

“विन्यास नक्शे के अनुसार नर्सरी स्कूल स्थलों, जहां उस हलाके में कोई ऐसी सुविधाएं उपलब्ध नहीं है, में निम्नलिखित परिवेश सुविधाएं अनुमेय हैं:—

1. डाकघर
2. समुदाय सदन एवं पुस्तकालय
3. औषधालय
4. स्वास्थ्य केन्द्र
5. क्रेच और डे केयर सेंटर
6. विद्युत सब-स्टेशन (11 कि. वा.)
7. सहकारी भण्डार
8. दुग्ध बूथ
9. ललित कला विद्यालय
10. प्रसूति गृह
11. शिशु कल्याण केन्द्र (धर्मार्थ)

[सं. के.-13011/21/93-डीडीआईडी]

आर. विजयनाथन, अवर सचिव

MINISTRY OF URBAN AFFAIRS & EMPLOYMENT

(Delhi Division)

New Delhi, the 20th September, 1995

S.O. 2685.—Whereas certain modifications, which the Central Government propose to make in the Master Plan for Delhi/Zonal Development Plan regarding the areas mentioned hereunder were published with Notice No. F. 1(7)/80-MP dated 4-2-94 in the Gazette dated 12-2-94 in accordance with the provisions of Section 44 of the Delhi Development Act, 1956 (61 of 1957) 'inviting objections' suggestions as required by sub-section (3) of Section 11-A of the said Act, within thirty days from the date of the said notice;

Whereas 2 objections/suggestions were received from the public with regard to the said proposed modifications, which have been considered by the Authority;

And whereas the Central Government have, after carefully considering all aspects of the matter, decided to modify the Master Plan for Delhi/Zonal Development Plans;

Now therefore in exercise of the powers conferred by Sub-Section (2) of Section 11-A of the said Act, the Central Government hereby makes the following modification in the said Master Plan for Delhi with effect from the date of publication of this Notification in the Gazette of India.

MODIFICATION :

“At page 157 of the Gazette of India Part II Section 3 Sub-section (ii) dated 1-8-90 under heading NURSERY SCHOOL AND KINDERGARTEN SCHOOL (080) the following is added :

“The following neighbourhood facilities are permissible in nursery school sites according to the layout plan, where no such facilities are available in the vicinity .

- (i) Post Office.
- (ii) Community Hall cum Library.
- (iii) Dispensary.
- (iv) Health Centre.
- (v) Creche and Day Care Centre.
- (vi) Electric Sub-Station (11 LV).
- (vii) Cooperative Store.
- (viii) Milk Booth.
- (ix) Fine Arts School.
- (x) Maternity Home.
- (xi) Child Welfare Centre (Charitable).

[No. K-13011/21/93-DDIB]

R. VISWANATHAN, Under Secy.

नई दिल्ली, 22 सितम्बर, 1995

का.आ. 2686.—यतः कतिपय संशोधन जिन्हें केन्द्रीय सरकार अर्धवार्षिक क्षेत्रों के बारे में दिल्ली 2001 के लिए बृहद् योजना में प्रस्तावित करती है तथा जो दिल्ली विकास अधिनियम, 1956 (1957 का 61) की धारा-44 के प्रावधानों के अनुसार दिनांक 13-4-91 के नोटिस सं. एफ.-20 (13)88/एमपी द्वारा प्रकाशित किये गये थे जिसमें उक्त अधिनियम की धारा 11-क की उप-धारा (3) में अपेक्षित आपत्तियाँ/सुझाव उक्त नोटिस की तारीख के 30 दिनों की अवधि में आमंत्रित किए गए थे।

और यतः प्रस्तावित संशोधनों के बारे में जनता से पांच आपत्तियाँ/सुझाव मिले जिन पर प्राधिकरण द्वारा विचार-विमर्श किया गया है।

अतः केन्द्रीय सरकार ने मामले के सभी पहलुओं पर ध्यानपूर्वक विचार-विमर्श के बाद, दिल्ली बृहद योजना/क्षेत्रीय विकास योजना में संशोधन करने का निर्णय किया है।

अतः, अब केन्द्रीय सरकार उक्त अधिनियम की धारा 11-क की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत के राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से दिल्ली की उक्त बृहद योजना में एतद्वारा निम्नलिखित संशोधन करती है :—

संशोधन :—योजना डिवीजन "एफ" में पड़ने वाले उत्तर में सुल्तान-गढ़ी मकबरे से पूर्वोत्तर में 75 मीटर चौड़ी (महरोली-महिपालपुर) सड़क में और दक्षिण तथा पश्चिम में ग्रामीण क्षेत्र से घिरे 25.48 हेक्टे. (62.93 एकड़) क्षेत्र के भूमि उपयोग को "ग्रामीण उपयोग क्षेत्र" से "आवासीय उपयोग" में परिवर्तित किया जाता है।

[सं.के.-13011/33/90-डी डी आई वी]

आर. विश्वनाथन, अवर सचिव

New Delhi, the 22nd September, 1995

S.O. 2686.—Whereas certain modification, which the Central Government proposed to make in the Master Plan for Delhi-2001 were published with Notice No. F 20(13)88/MP dated 13-4-91 in accordance with the provisions of Section 44 of the Delhi Development Act, 1956 (61 of 1957) inviting objections/suggestions as required by sub-section (3) of Section 11-A of the said Act, within thirty days from the date of the said notice;

Whereas five objections/suggestions were received from the public with regard to the said proposed modifications which have been considered by the Authority;

And whereas the Central Government have, after carefully considering all aspects of the matter, decided to modify the Master Plan for Delhi/Zonal Development Plan;

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 11-A of the said Act, the Central Government hereby makes the following modification in the said Master Plan for Delhi with effect from the date of publication of this Notification in the Gazette of India.

MODIFICATION :

"The land use of an area measuring 25.48 ha- (62.93 acres) falling in Planning Division 'F' bounded by Sul-tan Garhi Tomb in the North, 75 mts. wide (Mehrauli-Mahipalpur) Road in the North-East, and Rural area in the South and West is changed from 'Rural use zone' to 'Residential use'."

[No. K-13011/33/90-DDIB]

R. VISWANATHAN, Under Secy.

नागर विमानन और पर्यटन मंत्रालय

(नागर विमानन विभाग)

नई दिल्ली, 18 सितम्बर, 1995

का.आ. 2687.—सरकारी स्थान (अप्राधिकृत अधिभोगियों की वेदखली) अधिनियम 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तथा अधिसूचना संख्या का.आ. 2369 दिनांक 08-11-1973 और का.आ. 1534 दिनांक 28-6-1993 के अधिक्रमण में उन बातों को छोड़कर जो ऐसे अधिक्रमण में पूर्व ही चुकी हों अथवा जिन्हें किए जाने की अनदेखी कर दी गई हो केन्द्र सरकार एतद्वारा नीचे दी गई सारिणी के स्तम्भ (1) में दर्शाए गए अधिकारी को जोकि सरकार के राजपत्रित अधिकारी के रैंक के समकक्ष है, उक्त अधिनियम के उद्देश्य हेतु सम्पदा अधिकारी नियुक्त करनी है जोकि इस सारिणी के स्तम्भ (2) की संबंधित प्रविष्टि में दर्शाए गए स्थानों के संबंध में उक्त अधिनियम द्वारा अथवा इसके अधीन सम्पदा अधिकारी पर अधिरोपित दायित्वों का पालन करेगा एवं प्रदत्त शक्तियों का प्रयोग करेगा।

सारिणी

अधिकारी का पदनाम	सरकारी स्थानों की श्रेणियाँ
(1)	(2)
सहायक निदेशक-विधि एवं प्रशासन, एयर इंडिया लिमिटेड	पूरे भारत में वो सभी स्थान जो एयर इंडिया लिमिटेड अथवा एयर इंडिया लिमिटेड नाम के संदर्भ में इसके पूर्व-नरीमन प्वाइंट, इन्तर्मीडियट और इसकी ओर से पट्टे पर लिए गए हैं अथवा इसके अपने स्थान।
बम्बई-400021	

[संख्या ए.वी. 18050/135/94-ए.ए.]

श्रीमती एल. इन्दुमति, अवर सचिव

MINISTRY OF CIVIL AVIATION AND TOURISM

(Department of Civil Aviation)

New Delhi, the 18th September, 1995

S.O. 2687:—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) and in supersession of the notification numbers S.O. 2369, dated the 8th November, 1973 and S.O. 1534, dated the 28th June, 1993, except as respect things done or omitted to be done before such supersession, the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being officer equivalent to the rank of gazetted officer of the Government to be estate officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on the estate officer by or under the said Act in respect of the premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Designation of the Officer	Categories of Public Premises
(1)	(2)
Assistant Director—Legal and Administration, Air India Limited, Air India Building, Nariman Point, Bombay-400 021.	All premises throughout India belonging to or taken on lease by or on behalf of Air India Limited or its predecessor in title.

[No. Av. 18050/135/94-AA]

L. INDUMATHY, Under Secy.

अम मंत्रालय

नई दिल्ली, 8 सितम्बर, 1995

का. अ. 2688.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बड़ोदा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-9-95 को प्राप्त हुआ था।

[संख्या एल—12012/393/89/डी II ए/आई. आर. बी-2]

ब्रज मोहन, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 8th September, 1995

S.O. 2688.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 7-9-95.

[No. L-12012/393/89-DILA/IR-(B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 154 of 1990

In the matter of dispute between :
Shri Ram Lal, H
C/o. Shri O. P. Nigam,
295/387, Deen Dayal Road,
Asharfabad,
Lucknow-226003.

AND

The Regional Manager,
Bank of Baroda,
19, Way Road,
Lucknow-226001.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-12012/393/89-D.II.A dt. 11-7-90, has referred the following dispute for adjudication to this Tribunal :—

"Whether the action of the management of Bank of Baroda in terminating the services of Shri Ram Lal was justified? If not to what relief the workman is entitled to?"

2. This reference was made at the instance of U.P. Bank Employees Congress through O. P. Nigam, State President, during the pendency of these proceedings O. P. Nigam died. Hence the notice was issued to the concerned workman, but no one has turned up since July 1995. It appears that the concerned workman is not interested in the case,

otherwise he would have approached the court after the death of representative. Hence my answer of the reference is in the affirmative and against the concerned workman. Consequently he is not entitled to any relief.

3. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 8 सितम्बर, 1995

का. आ. 2689.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मद्रास पोर्ट ट्रस्ट के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-9-95 को प्राप्त हुआ था।

[सं. एल.—33011/4/90-आई आर (मिस)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 8th September, 1995

S.O. 2689.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure in the industrial dispute between the employers in relation to the management of Madras Port Trust and their workmen, which was received by the Central Government on 7-9-1995.

[No. L-33011/4/90-IR (Misc)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU,
MADRAS

Friday, the 18th day of August, 1995

PRESENT :

Thiru N. Subramanian, B.A.B.L., Industrial Tribunal.

Industrial Dispute No. 53/1990

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workmen and the Management of Madras Port Trust, Madras).

BETWEEN

The Workmen represented by

The General Secretary,
Madras Port United Labour Union,
7, Phillips Street,
Madras-600001.

AND

The Chairman,
Madras Port Trust,
Rajaji Salai,
Madras-600001.

REFERENCE :

Order No. L-33011/4/90-IR (Misc.) dated 20-6-1990,
Ministry of Labour, Government of India, New
Delhi.

This dispute coming on for final hearing on Friday, the 28th day of July, 1995 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Tvl. R. Ganesan and R. Gowthaman, Advocates appearing for the Workmen and of Thiru R. Arumugam for Tvl. Aiyar and Dolia, Advocates appearing for the Management, and this dispute having stood over till this day for consideration, this Tribunal made the following

AWARD

Government of India, by its Order No. L-33011/4/90-IR (Misc.), dated 20-6-90 referred for adjudication before this Tribunal regarding the dispute under Section 10(1)(d) of Industrial Disputes Act, 1947:

"Whether the Management of Madras Port Trust is justified in dismissing Shri M. S. Mani, T. No. 144, Mazdoor and Shri K. Selvaraj, T. No. 148, Mazdoor from service vide their memo dated 11-6-85. If not, what relief the concerned workmen are entitled to?"

The parties to the dispute, after notices were served have filed their claim statement and counter statement.

2. The case of the Petitioner-workman is as follows :

The industrial dispute relates to the non-employment of two workmen of Madras Port Trust viz. M. S. Mani and K. Selvaraj. The Management has been showing undue favour to the HMS Union, and is showing a step-motherly treatment to the petitioner-union. This dispute is one of such instances wherein the extreme punishment of dismissal was imposed on the concerned workmen who are members of the petitioner-union, on a complaint given by a member of the HMS Union. K. S. Adhisivam, working as a Stores Assistant, gave a complaint to the Chairman, Port Trust on 27-2-85 that when he was proceeding to the room of A.C.O.S. (Receipts), he was pushed and assaulted by M. S. Mani and K. Selvaraj, as a result of which he fell down on the ramp and sustained injuries. In his complaint he has stated that Chelladurai (A.C.O.S.) (Receipts) helped him to get up. Accordingly, a charge memo was issued to them by the Chairman in the memo dated 1-3-85, charging them with disorderly behaviour. The two workmen submitted their reply on 20-3-85 denying the charges, and requested a copy of the complaint by Adhisivam, which was not furnished to them. The domestic enquiry started on 6-4-85. At the very commencement of the enquiry the worker M. S. Mani was examined and cross-examined. The copy of the complaint was shown to him in the enquiry, but was not furnished. On 9-4-85, the worker Selvaraj was examined and cross-examined and he was also not given a copy of the complaint, though he was permitted to see the same. After the examination and cross-examination of the workmen was over, the Management examined Adhisivam, Chelladurai and Dr. Shobha. Leading questions were put. The Enquiry Officer committed a grave error in examining the charge-sheeted workers first, and then examining the Management's witness. This procedure prejudiced the defence of the workers. The Presenting Officer intervened during the enquiry and gave a statement as if he is a witness. The enquiry was vitiated by violation of principles of natural justice. The Enquiry Officer held the workers guilty. A personal hearing was given to them. To the Show Cause Notice dated 7-5-1985, a reply was sent on 21-5-85. The Chairman of the Port Trust passed orders on 11-6-85 dismissing the two workers from service. An appeal was filed by the workers to the Government, during the pendency of which, the disciplinary authority submitted a report to the Government on 10-10-85 stating that the punishment awarded to the workers should be sustained. The Secretary to Government of India, Ministry of Transport dismissed the appeal on 23-12-85. The order of dismissal is illegal, and

not justified. The Enquiry Officer intervened in the course of enquiry and chose to make a statement. While Chelladurai was being examined, by suggesting answers. This was permitted by the Enquiry Officer and was justified by him. There were contradictions in the evidence of the witnesses for the Management. The doctor who prepared the history sheet was not examined, but another doctor was examined. The disciplinary authority should not have made a report to the Appellate Authority justifying its orders. The disciplinary authority has in his report referred to the Union-activities and strike notice issued by the Petitioner-Union in order to create an impression that the two workers were responsible for everything. This influenced the Appellate Authority to pass the order of dismissal. The order of dismissal is vitiated on this ground also. The Management has adopted a discriminatory attitude in the case of the two workers, who belong to the union affiliated to AITUC. The workers belong to the HMS were treated leniently in the case of misconduct committed by them. The Management has not considered the past record of the workers. This is a fit case for interference with the punishment. The order of dismissal may be held as not justified, directing the reinstatement of the two workers, with back wages and continuity of service.

3. The respondent filed the following counter.—As the action on the part of Mani and Selvaraj amounted to serious misconduct under Clause 42(C)(IV) of the Standing Orders of the Port of Madras, involving riotous and disorderly behaviour, during Office hours in the Harbour premises, they were suspended. A charge was also framed and an enquiry was ordered. During the enquiry full opportunity was given to the delinquents to defend themselves. Based on the evidence recorded at the enquiry, the Enquiry Officer held that the charge was proved. Concurring with this finding, a second show cause notice dated 7-5-85 was issued to both the delinquents, calling upon them to show cause as to why they should not be dismissed from service. They submitted their joint-written statement dated 21-5-85, in reply to this. The delinquents were also given a personal hearing by the Chairman, on 30-5-85. Examining all the points raised in the written statement dated 21-5-85, taking into account the nature of evidence recorded and other records of the enquiry, and also the pleas raised by the delinquents, the Chairman decided to impose the punishment of dismissal, and accordingly both the delinquents were dismissed from service, by the memo dated 11-6-85. The appeals filed by the delinquents were dismissed by the Central Government. There is no question of showing any leniency to particular union or its members.

4. The delinquents were allowed to pursue the complaint before the enquiry. It is incorrect to state that Mani and Selvaraj were examined and cross-examined at the commencement of the enquiry. The Enquiry Officer only clarified certain points regarding the enquiry. As requested by the delinquents, the complaint of Adhisivan was read before the delinquents during the enquiry proceedings. The allegation that the Enquiry Officer committed a grave error in examining the delinquents first and that this procedure prejudiced the defence is incorrect. The procedure adopted by the Enquiry Officer is normal. The respondent did not submit any report to the Government. No leading questions were put, and no objection was raised in the enquiry. The Enquiry Officer did not intervene in the course of the enquiry. There is no contradiction in the evidence. There is nothing wrong in submitting the case history to the Appellate Authority. The Management has not adopted a discriminatory attitude. The misconduct committed by the petitioners is serious. Taking into consideration all aspects including the past record, the order of dismissal was passed. The allegation that the order of dismissal is disproportionate to the charge is not correct. Their past record is not clean. No interference is called for under Section 11(A) of the Industrial Disputes Act. In the event of this Tribunal coming to the conclusion that the enquiry conducted is not fair and proper or that the finding is not fair then an opportunity may be given to the respondent to prove the charge by letting in fresh evidence. Therefore, the reference may be answered in the negative and the Industrial Dispute may be dismissed.

5. MWs 1, 2 and 3 and WWs 1 and 2 were examined. Exs. W-1 to W-24/S were marked by consent. Exs. M.1 to M.3 were marked.

6. The Point for consideration is :

"Whether the Management of the Madras Port Trust is justified in dismissing Shri M. S. Mani, T. No. 144, Mazdoor and Shri Selvaraj, T. No. 148, Mazdoor from service vide their memo dated 11-6-85. If not what relief the concerned workmen are entitled to?"

7. The preliminary issue was raised by the Petitioner's counsel to the effect that domestic enquiry conducted by the respondent-management was not proper and fair. Preliminary issue was decided by this Tribunal by its order dated 20-8-93 that the domestic enquiry conducted by the Management was not fair and proper. Subsequently Management was allowed to let in further evidence to prove the charges against the petitioners. One Shri K. S. Adhisivan, working as Stores Assistant Gr. II gave a complaint on 27-2-85 that when he was proceeding to the room of A.C.O.S. to attend a phone call he was pushed by the two workers M. S. Mani and K. Selvaraj and when questioned they fisted on his face and hands and pushed him down, as a result of which he fell down on the ramp and sustained injuries. Ex. M.1 is the complaint given by MW1. On the complaint a charge memo was given to the workmen M. S. Mani and Selvaraj, i.e. Exs. W-1, W-2 and W-3. After receipt of the explanation, domestic enquiry was conducted. Ex. W-7 is the copy of the domestic enquiry proceedings. Ex. W-11 is the copy of the Enquiry Officer's report. Subsequently after giving a second show cause notice, the workmen were dismissed from service. Ex. W-15 is the copy of the dismissal order. The appeals preferred by the Petitioners were also dismissed. It is argued by the petitioner's counsel that to prove the allegation that these two petitioners assaulted MW1 and caused injuries are not proved. He pointed out that there are discrepancies in the evidence of MWs 1 and 2 regarding the occurrence. In the complaint Ex. W. 1, MW1 has stated that both of them beat him and pushed him down. But in the evidence before the enquiry he has stated that Selvaraj pushed him down and hit him on his face. Further according to MW1, Chelladurai MW2 came and lifted him. But according to Chelladurai, MW2 when he came out of the room, Mani was holding the hair of MW1 and MW1 was standing. He did not lift him. Further it is argued that when MW1 was coming down in the staircase, Selvaraj went upwards and in the course both of them dashed each other and MW1 fell down and sustained injuries. It is argued that MW3, the doctor who treated the MW1 has stated that the injuries sustained by MW1 would have been caused by falling down on the ground. Therefore, there is no acceptable evidence to prove that MW1 was assaulted by the two petitioners.

8. It is argued by the respondent's counsel that it is true in the complaint Ex. W-1, MW1 has stated that both of them hit him and fisted him and pushed him down. One cannot expect the minute details of the occurrence in the complaint. During the enquiry when the witnesses were examined, there are some discrepancies about the actual attack by the petitioners regarding which part of the body petitioners attacked. The discrepancies pointed out by the petitioner's counsel are very minor. That will not in any way disprove the fact of occurrence as alleged by MW1, MW2 also says there was an occurrence. When he came out of the room, he saw the workman Mani was holding the hair of MW1. He was not a full eye witness for the entire occurrence. It is also the evidence of MW3, the doctor that contusion found on the cheek of the MW1 could have not been caused by falling on the ground. It ought to have been caused by fisting. Motive for the occurrence according to MW1 is that there two petitioners called the MW1 to attend the Gate meeting to be held on that day by their Union. Admittedly the 2 workmen belong to one union and MW1 belongs to another union. When MW1 refused to attend the meeting of their union, they attacked him. The fact that there was a gate meeting by the Union of the petitioner is not disputed. It is also admitted that there is no other personal motive between the petitioners and MW1. Even in criminal cases, there will be minor discrepancies regarding the occurrence and the manner of attack and the part played by each accused. It is not a criminal case that the guilt of the accused must be

proved beyond reasonable doubt. Now the point for consideration is, whether these petitioners assaulted MW1 in the campus during the working hours. This fact is proved by the evidence of MWs 1 and 2. The behaviour of the petitioners in attacking MW1 in the campus during the working time will amount to a serious misconduct. But discrepancies pointed out by the Petitioner's counsel will not in any way disprove the fact that there was an occurrence of assault on MW1 by the petitioners. So, there is sufficient evidence to prove that these two petitioners assaulted MW1 within the campus during the working hours. So, the charge against them is proved and the finding of the Enquiry Officer is based on evidence.

9. It is argued by the petitioner's counsel that the punishment imposed on the petitioners is too severe. These petitioners have been working for more than 19 years. They have not committed any serious misconduct in their service earlier. The Management has imposed lesser punishment for like misconduct in other cases. It is pointed out by the Management, in cases where lesser punishments are imposed, there is no assault. Assaulting co-worker within the campus during the working hours is serious misconduct. Therefore, a severe punishment is warranted for such misconduct. I also feel that assaulting co-worker during the working hours within the campus on account of Labour Union enmity will amount to serious misconduct and therefore, a serious punishment is required to stop such activities in future. So, the punishment imposed by the Management terminating the services of the two petitioners is absolutely correct.

10. The petitioner's counsel argued that the domestic enquiry conducted by the Management as found by this Tribunal is not fair and proper and that dismissal order issued on the basis of the improper domestic enquiry is bad, until the workmen are removed by proper legal order, he is deemed to be in service and he is entitled to get wages till he is removed properly. For that he relied on a decision reported in Lab. I.C. 1990 Page, 1892. The Supreme Court has held that if the order of punishment passed by the Management is declared illegal and the punishment is upheld subsequently by the Labour Tribunal, the date of dismissal cannot be related back to the date of illegal order of the employer. The applicant is therefore entitled to his salary. Therefore, the petitioner's counsel argued, the petitioners are entitled for salary upto the date of award if the Tribunal passes an award upholding the punishment.

In the result, an award is passed dismissing the claim of the petitioners, but the petitioners are entitled for salary till the date of award from the date of dismissal. No costs.

Dated, this the 18th day of August, 1995.

THIRU N. SUBRAMANIAN, Industrial Tribunal

WITNESSES EXAMINED

For Workmen :

W.W.1 : Thiru M. S. Mani
W.W.2 : Thiru K. Selvaraj.

For Management :

M.W.1 : Thiru K. S. Adhisivam.
M.W.2 : Thiru S. Chelladurai
M.W.3 : Dr. Shoba.

Documents Marked

For Workmen :

Fx.W-1/27-2-85 : Complaint of Thiru K. S. Adhisivam against Tvl. M. S. Mani and K. Selvaraj (Xerox copy).
W-2/1-3-85 : Suspension order issued to Tvl. M. S. Mani and Selvaraj (Xerox copy).
W-3/1-3-85 : Charge memo issued to Tvl. M. S. Mani and Selvaraj (Xerox copy).
W-4/10-3-85 : Memo issued by the Enquiry Officer to M. S. Mani and Selvaraj (Xerox copy).
W-5/20-3-85 : Letter from Thiru M. S. Mani to the Management requesting to furnish copy of the complaint of K. S. Adhisivam (Xerox copy).

W-6/20-3-85 : Letter from Thiru K. Selvaraj to the Management requesting to furnish copy of the complaint of Thiru K. Adhisivam (Xerox copy).

W-7/6-4-85 to 16-4-85 : Proceedings of the Enquiry Officer (Xerox copy).

W-8/29-4-85 : Representations made by Tvl. M. S. Mani and K. Selvaraj (Xerox copy).

W-9/7-5-85 : Second show cause notice issued to Thiru M. S. Mani (Xerox copy).

W-10/7-5-85 : Second show cause notice issued to Thiru K. Selvaraj (Xerox copy).

W-11/3-5-85 : Findings of the Enquiry Officer (Xerox copy).

W-12/10-5-85 : Reply of Thiru M. S. Mani and Thiru K. Selvaraj to the Second Show Cause Notice (Xerox copy).

W-13/21-5-85 : Representation made by Tvl. M. S. Mani and K. Selvaraj to the Management (Xerox copy).

W-14/11-6-85 : Memo issued by the Chairman, Madras Port Trust, imposing punishment of dismissal (Xerox copy).

W-15/13-6-85 : Notification about dismissal of Tvl. M. S. Mani and K. Selvaraj (Xerox copy).

W-16/20-6-86 : D.O. letter from the Director, Ministry of Transport, Department of Surface Transport, Govt. of India, to the Chairman, Madras Port Trust, Madras (Xerox copy).

W-17/1-7-86 : Reply by the Chairman, Madras Port Trust, Madras to Ex. W-16 (Xerox copy).

W-18/16-8-85 : Appeal preferred by Thiru M. S. Mani to the Secretary, Union Ministry of Shipping and Transport, New Delhi (Xerox copy).

W-19/16-8-85 : Appeal preferred by Thiru K. Selvaraj to the Secretary, Union Ministry of Shipping and Transport, New Delhi (Xerox copy).

W-20/10-10-85 : D.O. letter from the Chairman, Madras Port Trust to the Addl. Secretary to the Government of India, Ministry of Shipping and Transport, New Delhi regarding appeal prepared by Tvl. M. S. Mani and K. Selvaraj (Xerox copy).

W-21/23-12-85 : Letter from the Under Secretary to Government of India, Ministry of Transport, Department of Surface Transport (Ports Wing) to the Chairman, Madras Port Trust, Madras (Xerox copy).

W-22/23-12-85 : Order of the Government of India, Ministry of Labour, rejecting the appeal preferred by Thiru M. S. Mani (Xerox copy).

W-23/23-12-85 : Order of the Government of India, Ministry of Transport rejecting the appeal preferred by Thiru K. Selvaraj (Xerox copy).

W-24/Series : Acknowledgements from Thiru M. S. Mani and K. Selvaraj, dated 26-6-85 and 22-7-85 for receipt of Ex. W-14 (Xerox copy).

For Management :

Ex. M.12 : Statement of the Management over the dismissal of Tvl. M. S. Mani and K. Selvaraj, Mazdoors.
M-2 : Xerox copy of Page 167 of Accident Register, Madras Port Hospital.
M-3 : Page Nos. 15 and 16 of Enquiry Proceedings (Xerox copy).

नई दिल्ली. 8 सितम्बर, 1995

का. आ. 2690.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. एच. आर्क्ष. कारपोरेशन, के प्रबंधन के संबंध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम. पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-9-95 को प्राप्त हुआ था।

[सं. एल-15011/3/86-डी-II (बी)]

बी. एम. डेविड, ईस्क अधिकारी

New Delhi, the 8th September, 1995

S.O. 2690.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur (M.P.) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of E.S.I. Corporation and their workmen, which has received by the Central Government on the 8-9-85.

[No. I-15011/3/86-D-II(B)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(221)/1987

BETWEEN :

Ku. Manorama Sakhre (Smt. M. Pawar) and 27 others represented through the General Secretary, E.S.I. Corporation Employees' Union, Qr. No. 2, Type-III, E.S.I.C. Quarters, E.S.I. Dispensary Complex, Nehru Nafiar, Indore (MP).

AND

The Regional Director, E.S.I. Corporation, M.P. Region, Gokul Chambers, Dr. Sarju Prasad Marg, Indore (MP).

PRESIDING IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workmen.—S/Shri H. N. Upadhyaya & S. K. Rao, Adv.

For Management.—S/Shri R. K. Gupta & M. Chandulkar Advocate.

INDUSTRY : E.S.I. Corpn. DISTRICT : Indore (MP).

AWARD

Dated : August, 1st 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. I-15011/3/86-D-II(B) Dated 20th October, 1987, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Employees' Estate Insurance Corporation, M. P. Region, Indore, in terminating 28 workmen (as shown in the Annexure) from service vide their office order 128 of 1985 issued under Sr No. 18-A-22/12/85-Esthapna, dated 1-4-1985 is legal and justified? If not, to what relief are the concerned workmen entitled?"

ANNEXURE

(List of 28 workmen)

- (1) Ku. Manorama Sakhre (Smt. M. Pawar).
- (2) Anand Fatak.

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- (3) Rameshwar Kumarawat.
- (4) Ku. Suverna Ponikar.
- (5) Shiraj Nawaj Khan.
- (6) Vinay Kumar Fadke.
- (7) Pramod Pandey.
- (8) Ishwardas Sarin.
- (9) Sadanand Tripathi.
- (10) Pravin Kumar Parsai.
- (11) Yugal Kishore Dwivedi.
- (12) Ku. Asha Langde (Smt. Asha Mule).
- (13) Ku. Rekha Sharma.
- (14) Sanjay Saxena.
- (15) Rajendra Wadikar.
- (16) Rajendra Kumar Vaid.
- (17) Gopendra Kumar Malviya.
- (18) Rajendra Kumar Gita.
- (19) Rakhachand Jain.
- (20) Ku. Usha Hemnani.
- (21) Smt. Pramila Dhawan.
- (22) Kailashchandra Batodia.
- (23) Ashok Kumar Soni.
- (24) Ku. Manju Sarkar.
- (25) Mukesh Kumar Mishra.
- (26) Radhamohan Likhar.
- (27) Shekh Abdul Subhan.
- (28) Ashok Kumar Pal.

2. Admitted facts of the case are that the 28 workmen were appointed as ad-hoc L.D.C. by the management for a limited period; that the services of the workmen were terminated without paying the compensation or the notice.

3. The case of the workmen is that those workmen have worked for more than 240 days in a calendar year, for more than three years and they have performed the duties like the regular employees on the clear vacancies; that the services of these 28 workmen were illegally terminated by a common order dated 1-4-1985; that the management treated artificial breaks in their service 1982 to 1985 and committed unfair labour practice; the workmen have further alleged that their services were terminated in violation of the provisions of Sec. 25F of the I.D. Act. The workmen have prayed for reinstatement with full back wages along with other benefits.

4. The case of the management is that the workmen are not members of the Union and the Union has no authority to raise the industrial dispute of the workmen. The management has further submitted that the Estate Insurance Corporation is for enforcing the provisions of law and rules and scheme framed under the P.S.I. Act, that the Corporation is not doing any commercial or business activities and as such it is not covered by the definition of the 'industry' under Sec. 2(i) of the I.D. Act. The management has further alleged that the aforesaid 28 employees were initially appointed on ad hoc basis and continued in the same capacity by passing an order extension from time to time; that the ad hoc appointment of these workmen was a stop gap arrangement so that in the meanwhile the regular selection for giving appointment to the regular candidate be made; that all these workmen were given various opportunities from time to time to appear in the departmental test, but they could not succeed in passing test and therefore they were not regularised; that the management has framed service conditions of the employees known as Employees Estate Insurance Corporation (Staff Conditions of Service) Regulation, 1968 and according to the service conditions the employees should pass the test for their absorption on regular basis; that the services of these workmen came to an end due to efflux of time as per terms and conditions of service; that the candidates who have passed the required test were absorbed in the regular employment of the corporation.

5. The management has alleged that under Sec 2(a)(bb) of the I.D. Act which was added with effect from 18-8-84, the termination of the services of the workmen will not be covered by the definition of retrenchment; that the services of these workmen had come to an end due to the completion of the period of contract and as such they were not treated as retrenched employees for compensation and required

notice under Sec. 25F of the I.D. Act. The management has prayed that the termination of these employees be held valid as they failed to qualify in the test inspite of giving many opportunities to them.

6. Terms of reference was made the issue in the case.

7. The management has examined only witness, Shri J. P. Vishwakarma, and the workmen have not examined any witness. Documents filed by the workmen are Ex. W/1 to Ex. W/6 were admitted by the management. Management has filed documents, marked Ex. M/1 to Ex. M/7.

8. Shri J. P. Vishwakarma, Assistant Regional Director, E.S.I. Corporation, has stated on oath that these workmen were initially appointed on purely temporary and ad-hoc basis as L.D.C. for a period not exceeding three months from the date of their appointment. Shri J. P. Vishwakarma has further stated that the services of these workmen were for a limited period of three months and according to the conditions as laid down in the terms of contract they were liable to be terminated after the expiry of the period mentioned in the order. It is further stated that the post of L.D.C. was stop gap arrangement and the appointments were not continuous. Shri J. P. Vishwakarma has also specifically stated that the appointment was stop gap arrangement and regular appointment of these workmen was to be made on passing the required examination by them; that the workmen who have qualified the examination were absorbed and these candidates failed to qualify the required examination and as such they were not entitled for absorption.

9. In the cross-examination of Shri J. P. Vishwakarma only three questions were asked by the workmen. The only fact which was challenged in the cross-examination of Shri J. P. Vishwakarma was that the breaks in the service of the workmen were artificial. No facts came out in the cross-examination of Shri J. P. Vishwakarma to establish that the breaks in the service of the workmen were artificial. Workmen have not led any evidence to prove that the breaks in the service of the workmen were artificial.

10. Consequently, on the basis of the documents filed by the management Ex. M/1 to Ex. M/10 and from the uncontroverted statement of Shri J. P. Vishwakarma. It is clearly proved that—

- (a) the 28 workmen were appointed as L.D.C. on purely temporary and ad-hoc basis;
- (b) these ad-hoc L.D.C. were appointed for a limited period of three months and their services were to be terminated after the expiry of the terms of contract;
- (c) these workmen were appointed as stop gap management and not against the regular posts;
- (d) no examination was conducted for their appointment on adhoc basis and according to the Regulation these workmen were required to clear the competitive examination for their appointment on regular basis and that these workmen failed to clear the competitive examination while others successful in the examination, were appointed as L.D.C. on regular basis; and
- (e) the workman have not completed the work of 240 days in a calendar year;
- (f) there is no evidence to show that the management is guilty of artificial breaks in their service.

11. The Hon'ble Supreme Court in case of Madhyamik Siksha Parishad, U.P. Vs. Anil Kumar Mishra & Ors. etc. (1994-II-IJ p. 977) has held that the persons working on an ad hoc assignment which was not sanctioned as no right for regularization because such persons have no status under the I.D. Act to claim regularisation on the basis of completion of 240 days. These 28 workmen were appointed for a limited period on ad hoc basis and the post was not sanctioned. Consequently, in view of the observation made in case of Madhyamik Siksha Parishad (supra) those 28 workmen have no right to claim regularisation.

12. To substantiate the arguments that the termination of service on afflux of contractual period amounts to retrenchment for which Sec. 25F of I.D. Act is to be complied, learned counsel for the Union as retired on the following citations of the Hon'ble Supreme Court:

S. K. Verma Vs. CGIT, New Delhi (AIR 1981 p. 422; Santosh Kumar Gupta Vs. State Bank of Patiala (1985 SCC p. 340) Karnataka State Road Corporation Vs. H. Burayya (1984) (1) SCC p. 244 Mohanlal Vs. Bharat Electronics (1981) (3) SCC 255 and 1976 (4) SCC p. 222.

These citations are not applicable in our case because the definition of the retrenchment has enlarged by the amendment of 1936 in the I.D. Act whereby sub-clause (bb) was added in the definition of Sec. 2(oo) of the I.D. Act, Sub-clause (bb) of Cl. (oo) of Sec. 2 of the I.D. Act takes out clauses of employment from the definition of retrenchment i.e. where the termination of service on account of non-renewal of service of contract.

13. In recent judgment reported in 1994 Lab. I.C. 37 P.S. Anitha Vs. Asstt. Director of Tea Development Board Kottayam it is held that the termination of the casual employee on the expiry of contract does not amount to retrenchment. A similar view was expressed by the Hon'ble Supreme Court in case of Director Institute of Management Development Vs. Pushpa Srivastava AIR 1992 SC 2070—1992 Lab. I.C. 2055 and in case of Surendre Kumar Gyani Vs. State of Rajasthan (AIR 1995 SC 115—1992 Lab. I.C. 2569).

14. In case of Ram Prasad etc. etc. Petitioner Vs. State of Rajasthan 1992 Lab. I.C. 2139. It is observed that it can be possible that the work may be of a permanent nature and unscrupulous employer in order to avoid regularisation of service of the employee may resort to fix term of appointment but that does not render the provisions of Sec. 2(oo) (bb) as arbitrary. The work may be of casual nature and may be of limited scope and in such cases the employer cannot be saddled in making permanent employment. In case of Suresh Chand Mathey Vs. Jivaji University and others (JLJ 215) the provisions of Sec. 2 (oo) (bb) as inserted in 1984 is discussed and the High Court of Bombay in case of Dilip Vs. Zila Parishad (1990 Lab. I.C. p. 200) has also made the elaborate observation to this effect which are as follows:—

"Sub-clause (bb) of Cl. (oo) of 5.2 of the I. D. Act takes out a clause of employment from the definition of "retrenchment" and that class is where the termination of service is on account of non-renewal of a service contract between the workman and the employer or where contractual employment comes to an end on the basis of stipulation contained therein. The exception as contained in sub-clause (bb) has to be strictly construed as it takes away certain rights of workman which such workman have been enjoying earlier to the amendment. The terminations which are included in sub-clause (bb) are those which are brought about either because of non-renewal of the contract or because of expiry of time stipulated in the contract of employment. It needs no further explanation but the probability of the employer exploiting the labour by giving fixed tenure appointments can never be overruled and therefore, it would be improper and unwise simply to decide the nature of employment on the basis of letter of appointment issued by the employer. The nature of employment will have to be determined with reference to the nature of duties performed by the workman and type of job the workman was entrusted with. If the workman is engaged to do a particular job which may require him to do actual work for more than 240 days in twelve calendar months, such employment would be covered by the amended sub-clause because the employ comes to an end with the completion of the work. A stipulation in the contract that the employment would be for a specific period of ill completion of the work may also fall within the scope and habit of this sub-clause. But if the employer resorts to contractual

employment as a device to simply take it out of the principal Cl. (oo) irrespective of the fact that the work continues or nature of duties which the workman was performing are still in existence such contractual engagements will have to be tested on the envil of fairness, propriety and bona fides. May be that such fixed tenure employments are made to frustrate the claim of the workman to become regular or got himself confirmed as a permanent employee either under the Rules applicable to such employment or even under the Standing Orders. It is always open to the Court adjudicating the dispute to examine each and every case in its proper perspective and to protect the workman against the abuse of the amended provision. If this protection is not afforded the benefit flowing from retrenchment, to which every termination succumbs, would be rendered nugatory. The amended sub-clause (bb) would apply only to such cases where the work ceases to exist or such other analogous cases where the contract of employment is found to be fair proper and bonafide."

15. The management gave the appointment to these temporary workers for a limited period and the services were on contractual basis for temporary job. The management provided enumerable opportunity to the workmen to pass the written examination for their absorption on regular basis. These workmen were not able to qualify the examination. There is no evidence to the effect that the renewal of the contract was arbitrary or unfair while on the other hand, it is clear that the renewal was to provide an opportunity to these workmen to qualify the written test for their regularisation. The Constitutional Bench of the Supreme Court in case of Punjab Land Development and Reclamation Corporation Ltd. Chandigarh Vs. Presiding Officer, Labour Court, Chandigarh (1990-II-LLJ p. 70) has laid down that the definition of retrenchment under Section 2(oo) means the termination by the employer of the service of the workman for any reason whatsoever otherwise than as a punishment inflicted by way of disciplinary action and those expressly excluded by the definition.

16. In view of the observations of the Hon'ble Supreme Court and the different High Courts and looking to the terms of employment of the 20 workmen and the fair manner in which they were dealt with by the management. I am of the considered opinion that the termination of the service of these workmen on account of efflux of time in contract, is not a retrenchment in Section 2(oo) (bb) of the I. D. Act. Consequently, these workmen are not entitled for the benefits of Section 5-F of the I.D. Act.

17. The public money is not, undue enrichment of undeserving person. These workmen failed to qualify the required departmental examination. They were employed for limited period under the terms of contract. The management after the examination absorbed the deserving persons, these workmen who are not deserving cannot be absorbed by-passing the deserving candidates. The terms of contract of these workmen was fair, proper and bonafide and as such their termination is proper and not covered by the definition of retrenchment under Section 2(oo) (bb) of the Industrial Disputes Act.

18. The action of the management of Employees Estate Insurance Corporation in terminating the services of the alleged workman is legal and justified and the workman are not entitled for any relief, whatsoever. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 8 सितम्बर, 1995

का. आ. 2691.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, सरकार मैमर्स सेखावात माईनरल्स के प्रबंधन के

संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम. पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6/9/95 को प्राप्त हुआ था।

[संख्या एल.—29011/21/90—आई आर (मिस.)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 8th September, 1995

S.O. 2691.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur (M.P.) as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Sekhawat Minerals and their workmen, which was received by the Central Government on 6-9-1995.

[No. L-29011/21/90-IR (Misc)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)
Cast Ref. No. CGIT/LC(R)(179)/1990

BETWEEN

Shri Chatar Singh and others represented through the General Secretary, Cement Corporation employees Union, Nayagaon Cement Factory, Nayagaon, District Nandsaur (MP)-458468.

AND

M/s. Sekhawat Minerals, Owner Shri Babu Singh Shekhawat, Village Post Kosanda Tah. Chittorgarh, District Chhittorgarh (Rajasthan).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workmen—Shri B. S. Thakur, Advocate.

For Management—Shri G. L. Garg, Advocate.

INDUSTRY : Cement Corporation DISTRICT : Chittorgarh, (Rajasthan)

AWARD

Dated, the 8th August, 1995

This is a reference made by the Central Government, Ministry of Labour vide its Notification No. L-29011/21/80-IR (Vividh) dated 22-8-1990, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the management of M/s. Shekhawat Minerals, Loading Contractor in the Packing Plant of Cement Corporation of India Limited, Nayagaon Cement Factory, P.O. Nayagaon District Nandsaur is justified in removing from service Shri Chhatar Singh, Shri Riyaz Mohd. Shri Jagdishdas, Shri Ramgopal Shri Bhagwatilal and Shri Bakhmrām w.e.f. 5-8-88 and Shri Bhaurā Singh, Shri Madan Singh, Shri Dalpatsingh, Shri Hajarilal, Shri Himmatpuri, Shri Gircharsingh and Shri Ganpatsingh w.e.f. 19-8-88. If not to what relief these 13 workmen are entitled and from which date?"

2. Statement of claim was filed by the Union and on account of the non-appearance of the party my learned predecessor on 26-4-92 observed that the parties are not interested in pursuing the matter. However, notices were again issued to the parties and the parties remained absent inspite of the notice. Shri B. S. Thakur Advocate for the Union pleaded no instructions.

3. Consequently, it is, clear that the parties are no interested in pursuing the dispute. No dispute award is hereby passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 8 सितम्बर, 1995

का. आ. 2692.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कान्द्रि माईन्स आफ मगनिज उर (इंडिया) लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम. पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6/9/95 को प्राप्त हुआ था।

[संख्या एल—27012/2/92—आईआर (मिस.)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 8th September, 1995

S.O. 2692.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur (M.P.) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Kadri Mines of Manganese Ore (India) Ltd. and their workmen, which was received by the Central Government on the 6-9-1995.

[No. L-27012/2/92-IR (Misc)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (U.P.)

CASE Ref. NO. CGIT/LC(B)(123)/1993

BETWEEN

Shri Vijay Ramaji Gajbhiya, R/o. Kandri Mines, Teh. Ramtak, District Nagpur (MS).

AND

The Mines Manager Kandri Mine of Manganese ore (India) Ltd. Teh. Ramtek, District Nagpur (MS).

PRESIDED IN:

by Shri Arvind Kumar Awasthy.

APPENDANCES :

For Workman : In person,

For Management : Shri Telang.

INDUSTRY : Manganese Mines DISTRICT : Nagpur (MS)

AWARD

Dated, 8th August, 1995

This is a reference vide by the Central Government, Ministry of Labour, vide its Notification No. L-27012/2/92-IR (Misc.) dated 14-6-1993, for adjudication of the following industrial dispute.

SCHEDULE

"Whether the action of the management of Manganese Ore (India) Ltd. Kandri Mines in dismissing the services of Shri Vijay Ramaji Gajbhiya w.e.f. 7-2-1982 in legal and justified if not to what relief the workman is entitled to?"

2. Parties have not filed the statement of claim. It is stated by the parties that a settlement between the parties was arrived at during the course of conciliation before the Assistant Labour (C) Nagpur on 7-12-1992 and accordingly the workman, Shri Vijay Ramaji Gajbhiya, was taken on job on 14-12-1994. Settlement is verified by the parties on 19-5-1995 terms of settlement are as under :—

TERMS OF SETTLEMENT

1. The management agrees to reinstate Shri Vijay Ramaji in service within 15 days from today, without any back wages and benefits. The period of interregnum from the date of dismissal on the date of reinstatement will be treated as disnon, the subsistence allowance paid to him when he was under suspension will be treated as final and will not be re-opened.

2. Both the parties agree that this agreement shall be in full and final settlement of the above dispute.

3. The Union and the workman concerned agree that he will not indulge in any activities of anything which may adversely affect the discipline and tranquility at the Mines or disturb the production, productivity and over all smooth set up of the industry in future.

4. The Union agrees that this settlement has been arrived at amicably, as an extremely special case, and this will not be quoted as precedent in future.

5. Agreed that the earlier dispute raised by the workman on 15-5-92 which resulted in failure stands withdrawn.

6. Both the parties agree that they shall submit the implementation report to the ACC(C)-II, Nagpur by 31-12-1992 failing which, it will be assumed that the settlement has been implemented in full and final.

7. Since in view of the settlement there remains no dispute between the parties no dispute award is passed, parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 8 सितम्बर, 1995

का. आ. 2693.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. एन. सुन्दरसन (माईन्स) लिमिटेड, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम. पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6/9/95 को प्राप्त हुआ था।

[संख्या एल—29012/44/91—आईआर (मिस.)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 7th September, 1995

S.O. 2693.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur (M.P.) as shown in the Annexure.

sure, in the industrial dispute between the employers in relation to the management of S. N. Sunderson (Minerals) Ltd. and their workman which has received by the Central Government on 6-9-95.

[No. L-29012/44/91-IR(MISC)]

B. M. DAVID, Desk Officer
ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

CASE REFERENCE NO. CGIT/LC(R)/(110)/1992

BETWEEN

Shri Shiv Prasad Chaupuria at Bambhangawan, Thane Kymore, Teh. Vijayraghavgarh, District Jabalpur (MP)-482001.

AND

The Manager, S. N. Sunderson (Minerals) Ltd. Company Kahangaon Via Kymore, District Jabalpur (MP)-482001.

PRESIDED IN: By Shri Arvind Kumar Awasthy.

APPEARANCES:

For Workman—None.

For Management—Shri Mishra, Advocate.

INDUSTRY: Mine.

DISTRICT: Jabalpur (MP).

AWARD

Dated, the 7th August, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-29012/44/91-IR (Vividh) dated 15th June, 1992, for adjudication of the following industrial dispute:—

SCHEDULE

“क्या प्रबंधक मैसर्स एम.एन. सण्डर्सन (मिनरल्स) लिमिटेड, कंपनी काहनगांव ब्याया कैमोर जिला जबलपुर (म.प्र.) के प्रबंधको द्वारा श्री शिवप्रसाद चनपुरिया, एक सैंपलर ऑपररेटर, बडारी माईन्स, की सेवाएं दिनांक 21-11-90 से समाप्त किये जाने की कार्यवाही न्यायोचित है। यदि नहीं तो संबंधित कर्मकार किस अनुतोष का हकदार है।”

2. Reference was received on 22nd June, 1992. Several notices were issued to the workman to file the statement of claim. Workman has not filed the statement of claim. None appeared for the workman. Management has prayed to pass a no dispute award.

3. It is clear that the workman is not interested in pursuing his case. As such no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 8 सितम्बर, 1995

का. आ. 2694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मायशाहिला आर्दरण उर प्रोजेक्ट, के प्रबंध-तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध

में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम. पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-9-95 को प्राप्त हुआ था।

[संख्या एन—26012/9/86-डी-III (बी)/डी-II (ए)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 8th September, 1995

S.O. 2694.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur (M.P.) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bailadilla Iron Ore Project and their workmen, which has received by the Central Government on the 6th September, 1995.

[No. L-26012/9/86-D.III(B)/D.II(A)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

CASE REF. NO. CGIT/LC(R)(231)/1987

BETWEEN

Shri Mohan Rao, represented through the Secretary, Bastar Khadan Mazdoor Sangh (HMS), 2/B. New Colony. P. O. Kirandul, District Bastar (MP).

AND

The General Manager, Bailadilla Iron Ore Project dep. No. 14, P.O. Kirandul, District Bastar (MP).

PRESIDED IN: By Shri Arvind Kumar Awasthy.

APPEARANCES:

For Workman: Shri Kamlesh Dutta, Advocate.

For Management: Shri Rajendra Menon, Advocate.

INDUSTRY: Iron Ore Mine DISTRICT: Bastar (MP).

AWARD

Dated, the 17th August, 1995

This is a reference made by the Central Government Ministry of Labour, vide its Notification No. L-26012/9/86-D.III(B)/D.II(A) Dated 9-11-1987, for adjudication of the following industrial dispute:—

SCHEDULE

“Whether the action of the General Manager, Bailadilla Iron Ore Project, Deposite n. 14, Kirandul in not implementing office order dated 4-10-82 transferring the workman Shri Mohan Rao, Sampler is fair and justified? If not, to what relief the workman is entitled?”

2. Admitted facts of the case are that the workman, Shri Mohan Rao, was working as Sampler and on 4-10-82 the management of Bailadilla Iron Ore Project, N.M.D.C. Kirandul has issued the transfer order of transferring the workman from Mining Geological Department to Plant Department.

3. The case of the workman is that the management has not intimated the order of his alleged transfer dated 4-10-1982 and the action of the management is illegal.

4. The case of the management is that on account of the administrative exigencies, the order of the transfer of the workman was not intimated and the prerogative of the management to transfer the employee cannot be a matter of industrial dispute.

5. Terms of reference were the issues in the case.

6. Parties have not led any oral or documentary evidence. More than seven years have passed since the passing of the impugned transfer order and undoubtedly the prerogative of the management to transfer his employee is rarely questioned that too on the ground of malafide and for abuse of power. The workman has not pleaded the malafides of the management. Consequently, the action of the management in transferring the workman is held fair and justified. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 8 सितम्बर, 1995

का. आ. 2695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कानड्री माईन आफ मैंगनिज उर (इंडिया) लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम. पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-9-95 को प्राप्त हुआ था।

[संख्या एन—27012/3/92-आई आर (मि.)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 8th September, 1995

S.O. 2695.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur (M.P.) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Kandri Mine of Manganese Ore (India) Ltd. and their workmen, which has received by the Central Government on 6-9-95.

[No. L-27012/3/92-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

CASE REF. NO. CGIT/LC(R)(228)/1992

BETWEEN

Shri Liladhar Jairam Ghodeswar R/o Kandri Mine, Kandri Teh. Ramteke, District Nagpur (MS).

AND

The Mines Manager Kandri Mine of Manganese Ore (India) Ltd. Teh. Ramteke District Nagpur (MS).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workmen : None.

For Management : Shri L. M. Telang.

INDUSTRY : Manganese Mine DISTRICT : Nagpur (MS).

AWARD

Dated the 7th August, 1995

This is a reference made by the Central Government, Ministry of Labour vide its Notification No. L-27012/3/92.

IR (Misc.) Dated 19-11-1992 for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Manganese Ore (India) Ltd., Kandri Mine in dismissing the services of Shri Liladhar Jairam Ghodeswar w.e.f. 7-2-1992 is legal and justified? If not, to what relief the workman is entitled to?"

2. Reference was received for adjudication on 26-11-1992. Since then inspite of several notices sent to the workman, he has not appeared nor filed his statement of claim. The settlement between the management and the workman reached on 7-12-92 was filed by the management and the workman did not appear for verification. The management has alleged that the workman was reinstated as per settlement. As such, he is not interested in pursuing the reference. In view of the terms of settlement. It appears that the workman is not interested in pursuing his case. No dispute award is passed in view of the settlement dated 7-12-1992. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 8 सितम्बर, 1995

का. आ. 2696.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. एन. सुन्दरसन मिनेरल्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम. पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-9-95 को प्राप्त हुआ था।

[संख्या एन—29012/59/91-आईआर (विभिन्न)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 8th September, 1995

S.O. 2696.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur (M.P.) as shown in the Annexure in the industrial dispute between the employers in relation to the management of S. N. Sunderson (Minerals) Ltd. and their workmen, which has received by the Central Government on the 6-9-1995.

[No. L-29012/59/91-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR(MP)

CASE REF. NO. CGIT/LC(R)(166)/1992

BETWEEN

Shri Mithu Bhartiya S/o Shri Premeukh Bhartiya. R/o Gram Kalhara, Post Bambhangawan, Teh. Vijayraghavgarh District Jabalpur (MP)-481000.

AND

The Manager, S. N. Sunderson (Minerals) Ltd. Company Bhagyawan via Mysore District Jabalpur (MP)-482001.

PRESIDED IN :

By Shri Arbind Kumar Awasthy.

APPEARANCES :

For Workmen : None.

For Management : Shri Mishra Advocate.

INDUSTRY : Mine

DISTRICT : Jabalpur (MP)

AWARD

Dated : August 7, 1995

This is a reference made by the Central Government Ministry of Labour, vide its Notification No. L-29012/59/91-IR(Misc.) Dated 27-7-1992, for adjudication of the following industrial dispute :

THE SCHEDULE

"क्या प्रबंधतंत्र मैसर्स एस.एन. सण्डर्सन (मिनरल्स) लिमिटेड, कंपनी, काछगवा ब्लाया कैमोर जिला जबलपुर (म. प्र.) के प्रबंधकों द्वारा श्री मिटठू भारतीय आत्मज श्री प्रेमसुख भारतीय, एक्स डम्पर अप्रेटर की सेवाएं दिनांक 10-3-90 से समाप्त किये जाने को कार्यवाही न्यायोचित है। यदि नहीं तो संबंधित कर्मकार किस अनुतोष का हकदार है।"

2. Reference was received on 2-8-1982. Several notices were issued to the workmen to file the statement of claim. Workman has neither appeared nor file the statement of claim. None appeared for the workman Management had prayed to pass to no dispute award. It is clear that the workman is not interested in pursuing the dispute, as such no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 8 सितम्बर, 1995

का. आ. 2697.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार माईनरल एक्सप्लोरेशन कारपोरेशन लिमिटेड के प्रबंध-तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम. पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-9-95 को प्राप्त हुआ था।

[संख्या एल-29011/3/93-आईआर(मिस.)]

वि. एस. डेविड, डेस्क अधिकारी

New Delhi, the 8th September, 1995

S.O. 2697.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur (MP), as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mineral Exploration Corporation Ltd. and their workmen which has received by the Central Government on the 6-7-75.

[No. L-29011/3/93-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)
CASE REF. NO. CGIT/RC(R)(14)/1994

BETWEEN

Shri Dev Prasad and others, Or. No. 40/4, Pali Pro-
ject, Bisrampur Pali, District Shadol (MP).

AND

The Manager (P), Mineral Exploration Corporation
Ltd., Nagpur Area Office, Seminary Hills, Nagpur
(MS).

PRESIDED IN :

By Shri Arbind Kumar Awasthy.

APPEARANCES :

For Workmen : None.

For Management : Shri A. I. Gera.

INDUSTRY : RECL

DISTRICT : Nagpur(MS)

AWARD

Dated : August 7, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-29013/95-IR(Misc.) Dated nil, for adjudication of the following industrial dispute :—

THE SCHEDULE

"Whether the action of Chairman-cum-Managing Director of mineral Exploration Corporation Ltd., Nagpur in not complying with provisions of Sec. 25F after closure of Pali Coal Project contract work in relation to 33 workmen named in the schedule below, is legal and justified? If not, to what relief these 33 workmen are entitled?"

2. Workman has neither appeared nor the statement of claim was filed. Representative of the management appeared on several hearings and prayed to pass a no dispute award as the workman is not turning up. It is clear that the workman is not interested in pursuing the dispute. No dispute Award is hereby passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 8 सितम्बर, 1995

का. आ. 2698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनिट ट्रस्ट ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, 2 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-9-95 को प्राप्त हुआ था।

[संख्या एल-12012/272/90-आईआर(बी. 2)]

ब्रज मोहन. डेस्क अधिकारी

New Delhi, the 8th September, 1995

S.O.2698.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, 2 Bombay, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Unit Trust of India and their workmen, which was received by the Central Government on 7-9-95.

[No. L-12012/272/90-IR(B-11)]

BRAJ MOHAN, Desk Officer

ANNEXURE

REASONS

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri S.B. Panse
Presiding Officer

Reference No. CGIT-2/12 of 1991

Employers in relation to the Management of Unit Trust
of India.

AND

Their Workmen

APPEARANCES :

For the Employers : Shri D.D. Naik, Advocate.

For the Workmen : Shri Dongre, Advocate.

Bombay, the 14th August, 1995

AWARD (PART-II)

On 18-1-95 I passed Part-I award in the reference which was made to this Tribunal by letter dated 15th of March, 1991 in regard to the following schedule :

"Whether the action of the management of Unit Trust of India in terminating the services of Shri S.B. Vichare, peon is justified? If not, to what relief the workman is entitled?"

2. By the said award I answered issue numbers 2 and 3 which were preliminary issues. I came to the conclusion that the inquiry which was held against the workman was a proper inquiry. So far as issue No. 2 is concerned I came to the conclusion that the findings of the Enquiry Officer in respect of the charges dated 7-8-82 are not perverse, but, so far as the findings in respect of the charges dated 16-5-83 are perverse.

3. Before reproducing the issues which now I have to answer, it will be better to narrate the case of both the parties in nutshell. The workman Shri S. B. Vichare was a peon in the Unit Trust of India. He was charge-sheeted for misappropriating the amount of the Trust and violating of staff rules of the Unit Trust of India. The departmental inquiry was held against him in respect of the charges dt. 7-8-82 and 16-5-83. After the completion of the inquiry, the inquiry officer came to the conclusion that the charges which were levelled against the workmen were proved and ultimately he was dismissed from the services.

4. The workman contended that the departmental inquiry was against the principle of natural justice, that he has not violated any of the rules of the Unit Trust of India, that the punishment awarded to him is shockingly disproportionate. He prayed for usual benefits.

5. The management on the other hand supported his action as the legal one. It is awarded that for a grave misconduct the punishment which is awarded is just and proper. It is submitted that the Tribunal should not disturb the same.

6. Now the remaining issues that fall for my consideration and my findings thereon are as follows :—

Issues	Findings
1. Whether the General Manager (Operations) of the Unit Trust of India was not competent to take action against the workman Shri S. B. Vichare ?	Yes.
4. Whether the action of the management of Unit Trust of India in terminating the services of Shri S. B. Vichare, Peon is justified ?	No.
5. If not, to what relief the workman is entitled ?	Issue No. 1 answered in the affirmative, entitled to all benefits.
6. What Award ?	As per order.

7. (Ex. 5/9) is the order passed by General Manager (Operations) competent authority dated 20th Sept., 1983. It is normal rule that the competent authority passes such orders. Mr. Dongre the learned Advocate for the workman submitted that the services of the workman are governed by Unit Trust of India Staff Rules, 1978 as amended from time to time, Rule 55 deals with penalties. Rule 55(1)(e) deals with the penalties of dismissal. Rule 55(2) reads as follows :—

"No employee shall be subjected to the penalties (b), (c), (d) or (e) of sub-rule (1) except by an order in writing signed by the Chairman in the case of officers, Secretary of Chief General Manager (Personnel & Administration) as the case may be in the case of their employees at the Head Office and Deputy/Joint General Manager or "Officer-in-Charge" of the Regional office in the case of other employees at the Regional Office and the branches under his jurisdiction, and no such order shall be passed."

8. It is not under dispute that the concerned workman was working in the head office at a relevant time. As this is so, it was argued on behalf of the workman that the order of dismissal should have been passed by Chief General Manager (Personnel & Administration). The order which was passed in respect of the workman was by General Manager (Operations). It is not brought on the record how that authority had power to issue such order. It is not shown how the authority delegate those powers to the General Manager (Operations). The order which is passed by a person without authority is void in law. It has to be set aside.

9. The learned Advocate Mr. Naik, for the Management argued that Mr. Sarkar who passed the order was a Disciplinary authority. In normal course this action would have been upheld as he was the competent authority, but, in view of Rule 55(2), the submission made by the learned Advocate cannot be accepted. The authorities would have included the word competent authority in the said rule if really they had in their mind to do so. As this is not so I am not inclined to accept the submissions made on behalf of the Management. The result is that the General Manager (Operations) of Unit Trust of India was not competent to take the disciplinary action against the workman.

10. After coming to this conclusion there is no need to discuss in detail the other issues, but if it is found that the person who passed the dismissal order was competent to do so, in that case I think it is necessary to deal in detail in respect of other issues which I am inclined to do in below mentioned paragraph.

11. By the charge-sheet dated 7th of October, 1982 (Ex. 5/1) the workman was charge-sheeted to the effect that the amount of Rs. 400 was given to him to deposit the same in the Dena Bank on 26th of July, 1982. He did not deposit the same and informed the concerned officer that he deposited the same. But the amount was not deposited. On 28th of July, 1982, he returned the amount along with the cyclo-styled intimation letter given to the Dena Bank to the said concerned officer. In other words he was charged to have misappropriated for a temporary period. He gave wrong information to his superior officers regarding the deposit. I have come to the conclusion that these charges are proved against the workman and the findings of the Enquiry Officer are not perverse.

12. Mr. Dongre the learned Advocate for the workman argued that the punishment awarded to the workman is shockingly disproportionate. It can be seen that he had returned the amount and had monetarily not benefitted. He further submitted that he pleaded guilty for the said charge. He was orally informed that leniency would be showed to him. It is common knowledge that when a person pleads guilty the leniency is shown to him. Here in this case no such thing had happened.

13. On the other hand the learned Advocate for the Management relying on different authorities argued that if there is mis-appropriation, there should not be leniency. It is also tried to argue that if the penalty can be lawfully imposed and proved his mis-conduct the Tribunal has no power to substitute its own discretion for that authority. The learned Advocate placed reliance on :

1. Transport Undertaking, Chandigarh.

V/s.

Ranjit Singh and another 1982 L&IC Pg. 604.

2. T. Seeralan.

V/s.

The Presiding Officer II Additional Labour Court and others 1986 II L.L.J. pg. 85.

3. The Maharashtra State Road Transport Cropsn.

V/s.

Suryakant Dhondiba Mane & others 1987 II C.L.R. Pg. 417.

4. Haileyburia Tea Estate Limited.

V/s.

Estate's Staff Union of South India and ors. 1989 (Vol. 75) F.J.R. Pg. 393.

5. Union of India.

V/s.

Parma Nanda 1989 II C.L.R. Pg. 1.

6. Hindustan Aeronautics Ltd.

V/s.

K. Shanmugan and another 1991 II L.L.N. Pg. 1140.

7. Bank of India, Regional Office, Bangalore .

V/s.

D. Padmanabhudu and another 1994 II C.L.R. Pg. 1041.

8. Government of Tamil Nadu & Anr.

V/s.

A Rajapandian 1995 I C.L.R. Pg. 167.

It is always seen that facts are different. The principles laid down is to be seen. I had taken into consideration the principles laid in the above said authorities but, I did not find that looking to the facts in the present case, the punishment awarded to the workman is just and proper. It appears that the worker had unblemished service for many years. He had kept the small amount of Rs. 400 that too for a period of two days and then returned it. No doubt these keeping up the amount can be said to be mis-appropriation for a temporary period. It is not that a police complaint was made for such mis-appropriation. It is also noted that the workman denied the charges and the inquiry was required to be conducted. He pleaded guilty, therefore, the leniency is required to be shown in the matter. It is argued on behalf of the workman that his increments would have been stopped for a temporary period or likewise punishment should have been awarded. Now I do not wish to award such a punishment to him. I intend not to grant him any monetary benefit from the period of his dismissal to his re-appointment. While changing the nature of the punishment I had taken into consideration that normally these peons are from economically backward class. The punishment of dismissal is the total loss. I therefore, intended to change the punishment as stated above.

14. So far as the other charge is concerned I have come to the consideration that the findings of the inquiry officer are perverse. The learned Advocate for the management argued that on the basis of the evidence on the record, it can be seen that the findings are not perverse. He relied on;

Idukki District Estate Workers Union.

V/s.

Labour Court 1988 II L.L.N. Pg. 296.

It is observed therein that the domestic inquiry was found to be vitiated will not have the effect of subjudice whatever was done in the course of inquiry. In other words the learned Advocate wants me to reconsider the evidence on the record which I have already considered and came to the conclusion that the finding were not perverse. I may mention here that while passing Part-I award I have given direction to the parties that they can lead evidence if they choose. By pursis Ex. 15 the Management informed the Tribunal that the Management relies on the documentary evidence and the records. It can be seen that there is no fresh evidence or additional evidence to be considered in the matter. Mr. Dongre the learned Advocate for the workman on the other hand submitted that now the Tribunal cannot consider evidence which was already considered. I found substance in the same. Be considering the same evidence again means sitting in appellate jurisdiction on my own orders. This is something incorrect. This is not the case of review. The order of the dismissal which is passed against the workman is unjustified. The workman is entitled to reinstatement in service with full back wages and continuity in service. I record my findings on the points and pass the following order :

ORDER

1. The action of the Management of Unit Trust of India in terminating the services of S. B. Vichare, peon is not justified.
2. The Management is directed to reinstate the workman immediately.
3. The Management is directed to pay full back wages of the workman from the date of his dismissal.
4. The workman is entitled to continuity in service.
5. The management is directed to pay Rs. 300 as the cost of their reference to the workman and to bear its own.

S. B. PANSE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 1995

का. आ. 2699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारत कोकिंग कोल लि. की बलिहारी कोलियरी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार, औद्योगिक अधिकरण, (सं. 1) घनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-9-95 को प्राप्त हुआ था।

[संख्या एन-20012(53)/92 आई. आर. (कोल-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 11th September, 1995

S.O. 2699.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 1) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Balihari Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on 8-9-95.

[No. L-20012(53)/92-IR(Coal-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d)(2-A)
of the Industrial Disputes Act, 1947.

Reference No. 119 of 1992

Parties :

Employers in relation to the management of Balihari
Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen

Present :

Shri P. K. Sinha, Presiding Officer.

Appearances :

For the Employers : Shri H. Nath, Advocate.

For the Workmen : Shri S. S. Bhattacharjee, Authorised
Representative.

STATE : Bihar

INDUSTRY : Coal

Dated, the 28th August, 1995

AWARD

By Order No. L-20012(53)/92 I.R.(Coal-I) dated 25-9-1992 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Balihari Colliery in not accepting the date of birth of Shri Darogi Thakur, Drillman as 1-7-44 is justified? If not, to what relief the workman is entitled?"

2. The sponsoring Union appeared and filed written statement on behalf of the concerned workman claiming therein that Darogi Thakur, concerned workman, was appointed as Drillman before nationalisation of coal mines and is now working at Balihari colliery under M/s. B.C.C. Ltd. It has been explained that East India Coal Co. Ltd. were private owners of South Balihari colliery where the workman was working and after the take over of the coal mines and subsequent nationalisation, this colliery merged with Kachhi Balihari colliery and came to be known as Balihari colliery.

3. It has been claimed that the private owners had a printed application known as I.D. 6 in which at the time of appointment the relevant particulars of the appointee were declared including the date of his birth. Thereafter Form 'B' Register was prepared on the basis of this form. According to those records the date of birth of Darogi Thakur was written to be 1-7-44 which was the correct date.

4. It has further been contended that after the take over and nationalisation of the colliery, the new company prepared new Form 'B' Register based on the facts derived from Form 'B' Register kept by the private owners. But, it has been claimed, in the new register the date of birth was wrongly mentioned to be 1-7-1934. The written statement claims that this way actual date of birth of the concerned workman was altered by the management of the Balihari colliery, to the detriment of the workman who was prematurely superannuated. A prayer has been made to render an award directing the management to accept 1-7-1944 as the correct date of birth of the workman.

5 The management in its written statement has submitted that after take over, a new Form 'B' Register was prepared after the erstwhile employees came into the rolls of the new company in the year 1972-73. Identity Card Register was

prepared in the year 1974-75 and identity card was issued to the concerned workman which contained service details including date of birth. In these two registers the date of birth of the workman was mentioned to be 1-7-34, duly authenticated by the workman himself.

6. It has been claimed that even when the service excerpts were supplied to the concerned workman during the year 1986-87 which contained the date of birth of the workman, the workman did not raise any dispute in that regard.

7. It has been further claimed that for the first time a dispute was raised in the year 1979 when the sponsoring Union raised it before the Asstt. Labour Commissioner (C), Dhanbad by its letter dated 9-3-89.

8. In the rejoinder portion it has been denied that the date of birth of the concerned workman was altered by the management.

9. The sponsoring Union thereafter submitted its rejoinder to the written statement of the management, denying the charge of the management. It has been claimed that the concerned workman did not know English and was not explained the entries made in Form 'B' Register. It has also been claimed, which is admitted fact, that the Identity Card Register was prepared on the basis of Form 'B' Register, but the Union also has claimed here that the Identity Card issued to the workman did not mention his age.

10. In so far as the claim of the management about not objecting to the Service Excerpt which was supplied to the concerned workman around the year 1986-87 is concerned, this rejoinder states in para 9 that this allegation of the management is superficially correct that the workman did not raise any dispute relating to his age as mentioned in Service Excerpt. Here it has been claimed that the workman had approached the management personally and this dispute was raised when the management did not relent.

11. Considering contending contentions of the two parties following issues emerge for consideration:—

(i) Whether the date of birth as mentioned in the Form 'B' Register and in the Identity Card Register maintained by the management was correct, or if any change was made from the date of birth claimed to have been maintained in the Form 'B' Register of the private owners?

(ii) If the date of birth as mentioned in the aforesaid two registers of the management were incorrect, then whether it could be held that the date of birth of the concerned workman, as claimed, was 1st July, 1944?

(iii) If the aforesaid issues are answered in favour of the concerned workman, then to what relief the workman is entitled?

12. For the sake of convenience I take up the issue Nos. 1 and 2 together. Evidently, and admittedly, the dispute was raised before the Asstt. Labour Commissioner (Central), Dhanbad for the first time in March, 1989, though the concerned workman admittedly came into service of the new management around the year 1972-73. This fact has been admitted in para 4 of the rejoinder filed on behalf of the concerned workman. In para 5 of this rejoinder it has also been admitted that immediately after preparation of Form 'B' Register by the new management, Identity Card Register was also prepared and identity cards were issued to the employees around the year 1974-75.

13. Having raised industrial dispute after such lapse of time, the onus lay heavily on the sponsoring Union to prove that the claim of the concerned workman was correct. The sponsoring Union can succeed only after this onus is discharged by it.

14. But I find that for this the sponsoring Union has brought on the record in the shape of evidence only the oral contention of the concerned workman and a document

marked Ext. W-1 which I find to be unreliable. The format of Form I.D. 6 was proved by WW-1, Nathun Prasad, who also was the Branch Secretary of the sponsoring Union at that colliery. But the concerned workman, WW-2, in his evidence also submitted that before his appointment (under private owners in the year 1961) form in Ext. W-1 was filled up giving details about him including the date of his birth and that order was passed on that very form for his appointment. The management in cross-examination suggested that in the photo copy of this document the date of birth, as depicted therein, had been obtained by forgery. In cross-examination this witness also submitted that he had got the original of Ext. W-1 photocopied in the year 1986 or 1987. He also submitted that he had asked for a copy of the document from the office clerk who gave him the photo copy. Doubts arise about the authenticity of this document which is just a photo-copy, and also illegible at places. This shows to be an application for employment. The date of birth, which also is faint, appears to have been written as 1st July, 1944. But the concerned workman himself in his evidence has submitted that an order for his appointment was passed on this very form. He also admitted that he was appointed in the year 1961 at South Balihari Colliery as 'Malkatta'. But no such order is discernible on this document. There appears to be a signature of someone else of B. Kendwadih colliery, Kusunda, but only as a witness. The name of B. Kendwadih colliery has been stamped. As a matter of fact there is nothing in this document to suggest that in any way it was connected with the then South-Balihari colliery. No doubt this shows to be a format of East India Coal Company Ltd. but nothing on the record shows that this company owned only one colliery. Even no serial No. in this application has been mentioned at the space on the right for mentioning the serial No. in the register of applications.

15. The situation is more confounded by the evidence of WW-1 relating to this document. He submitted in para 2 that at the time of private owners, a workman appointed had to fill up one I.D. Form which was presented before the concerned official, and by order on the same form that official used to assign duty to that workman. Therefore according to him, this form was filled up by a workman who already had been appointed. As already seen, WW-2 has claimed in his evidence that this form was filled up before his appointment. However, this form does not contain any order through which the concerned workman was assigned duty. As a matter of fact there is nothing on this form to connect it with any official of South-Balihari colliery.

16. From the record it will appear that though this is a reference of the year 1992 yet this document was filed on the record by the sponsoring Union by application dated 22nd March, 1994. Earlier this document was not filed which is strange because WW-2 in his evidence had claimed that he had got this photo copy of document in the year 1986 or 1987, i.e., even before the dispute was raised. But if the workman could obtain this photo copy from the original, obviously through the courtesy of the office clerk of the management, then there was nothing to prevent the sponsoring Union to make a prayer for directing the management to file the original, instead of filing almost illegible photo copy of the same.

17. Therefore, I find that no reliance whatsoever can be placed on this document.

18. Besides the document the only support of the claim has come through oral evidence of the concerned workman which, without some clinching proof in view of abnormal delay, can hardly be accepted. M.W.1, D. N. Jha is working as Personnel Manager at Balihari Colliery. He has proved the relevant entries in Form 'B' Register as well in Identity Card Register relating to the concerned workman, on which the L.T.I. of the workman had been obtained. In these two documents, marked Ext. M-1 and M-1/1, the date of birth of the concerned workman has been noted to be 1-7-34.

19. It is to be seen that in its rejoinder the sponsoring Union has not disputed specifically that these two entries were authenticated by the concerned workman (by putting his L.T.I.), but has only claimed that question of authentication did not arise because the workman was illiterate and

the entries were not read over to him. However, the workman in his evidence has admitted that he had put his L.T.I. in both the registers. This witness has not even claimed in evidence that before taking his L.T.I. the entries were not read over and explained to him. He only has denied that in those registers 1-7-34 had been mentioned as the date of his birth. Obviously, this assertion is not true.

20. On the other hand, MW-1 in his evidence has submitted that the entries were taken up verbatim from the Form 'B' Register of the erstwhile South-Balihari Colliery. This witness told this Tribunal that after making entry in the register, the particular workman was called, entries were read over to him and then he affixed his L.T.I.

21. Therefore, it is difficult to believe the contention of the concerned workman, as he has stated in his evidence, that for the first time he came to know about the wrong entry about the date of birth when he was given a copy of the Service Excerpt.

22. Ext. W-2 is the Identity Card of this concerned workman with the help of which it has been argued, in support of the claim of the concerned workman, that Identity Card did not depict his date of birth. It is true that the column of date of birth and even the column of date of employment or the column of the date of his admittance to C.M.P.F., are vacant.

23. In the pleading it has not been denied that the Identity Card was issued to the concerned workman around the year 1974-75. But this Identity Card on the record is just a duplicate copy which, as per signature of some official over it, was issued in the year 1993. Therefore, this Identity Card does not help the concerned workman in repudiating the claim of the management that the date of birth in the Identity Card supplied in the year 1974-75 was mentioned to be 1-7-1934, particularly when the workman has brought no evidence on the record to explain as to what happened to the Identity Card supplied earlier in the year 1974-75, or even subsequently, if any, but prior to the year 1993 when this duplicate was issued.

24. That neither the concerned workman nor the sponsoring Union was serious about this dispute is apparent even if the contention of the concerned workman is accepted that for the first time he came to know about the wrong entry when Service Excerpt was issued to him. It has not been denied that the service excerpts were issued sometime in the year 1986-87. WW-2 in his evidence has claimed that thereafter he had moved the management. But in cross-examination he admitted that till raising of the industrial dispute he had not filed any representation in writing to the management in this regard, rather he had protested verbally. WW-1 in his evidence has claimed that it was in the year 1987 itself that the concerned workman had complained to them about the wrong entry. He submitted that he had approached the Senior Personnel Manager more than once for making the correction and also received his verbal assurance. When the management did not do anything then a dispute was raised but he also admitted that he had not moved the authorities in writing, nor the concerned workman had lodged his complaint to him, in writing.

25. It is very strange that even a Trade Union, on receipt of such allegation from one of its members would contend itself by only making verbal submissions and patiently wait for more than a year atleast for his pleadings to fructify. There is no reason that when the workman had complained to the Union in the year 1987 itself, the Union would not either take up the matter with the management in writing or have the concerned workman file a representation in this regard, in writing. Therefore, the verbal pleading to explain away the casualness and inactivity of the sponsoring Union or of the concerned workman, is not acceptable.

26. Therefore, considering the materials on the record I do not find that the sponsoring Union has been able to make out even an arguable case in favour of the concerned workman. The sponsoring Union obviously has failed to discharge its onus in proving its contention.

27. In view of the aforesaid the first two issues have to be answered against the sponsoring Union and the concerned workman and in favour of the management.

28. That being so, there is no question of further consideration of Issue No. 3.

29. Following, therefore, is the award :—

The action of the management of Balihari Colliery in not accepting the date of birth of Darogi Thakur, Drillman as 1-7-1944 was justified. The concerned workman is entitled to no relief.

Under the circumstances of the case there will be no order as to the cost.

P. K. SINHA, Presiding Officer

नई दिल्ली, 12 सितम्बर, 1995

का. आ. 2700.—श्रीद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैमर्स ए.बी.सी. एंड सॉन्स प्राईवेट लिमिटेड, बम्बई के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, तं. 2, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-95 को प्राप्त हुआ था।

[संख्या एल-31012/32/90-आईआर (मिस.)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 12th September, 1995

S.O. 2700.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure. in the industrial dispute between the employers in relation to the management of M/s. ABC & Sons Pvt. Ltd., Bombay and their workmen, which has received by the Central Government on 11-9-95.

[No. L-31012/32/90-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/38 OF 1990

Employers in relation to the management of M/s. ABC and Sons Pvt. Ltd., Bombay.

AND

Their Workmen.

APPEARANCES :

For the Employers :

Shri S. K. Talsania, Advocate.

2. Shri V. H. Kantharia Advocate.

For the Workmen :

Shri S. R. Wagh Advocate.

Bombay, the 16th August, 1995

AWARD

1. The Government of India Ministry of Labour by its letter No. L-31012/32/90-IR(Misc.) dated 14th of November, 1989 had referred to the following Industrial Dispute for adjudication.

"Whether the termination of services of Shri Barkia Govind Shigvan, Cleaning Gang Worker w.e.f. 1-1-1987 by the management of M/s. Ardeshir B. Cursetjee & Sons Pvt. Ltd., Stevedores & Cleaning & Forwarding Agents, Bombay is justified? If not, to what relief is the workman entitled?"

2. Barkia Govind Shigvan the workman states that he was in the permanent employment of M/s. Ardeshir B. Cursetjee and Sons Pvt. Ltd., Bombay Stevedores and Clearing and Forwarding Agents conducting its business in the Port of Bombay from the year 1964 to 31-12-86.

3. The workman contended that he is in the service of the Company for more than 22 years. His services were terminated by a letter dated 28-11-86 with effect from 1-1-87. He pleaded that he was not paid legal dues as required under the Industrial Disputes Act. It is averred that termination was without any valid reasons. It is submitted that the termination is because of the alleged letter of Bombay Dock Labour Board is without any justification. It is pleaded that he was never made aware that he should get himself registered with the Board as General Purpose Mazdoor. It is averred that if at all it is necessary to register him as the General Purpose Mazdoor with the Board it was the duty of the Company to do so as he was in the employment of the Company since 1964. It is submitted that except him all other Clearing Gang Workers, his co-workers, even some of them who were Junior to him were registered as General Purpose Mazdoor with the Board. It is asserted that the Company intentionally and or negligently failed to register him as General Purpose Mazdoor and the action of the Company is itself illegal. It is submitted that for all these reasons he is entitled to reinstatement of service with continuity and back wages.

4. The company resisted the claim by their written statement Ex. 3. It is asserted that the workman approached the concern authorities by his letter dated 2nd of March, 1988 which is after the considerable lapse of time. The claim became belated and cannot be accepted. It is submitted that the action of the company is on the basis of letter of the Bombay Dock Labour Board refusing to register the workman as a General Purpose Mazdoor. As he could not be registered in view of the provisions of the law, the company cannot employ un-registered workman and has no way but to terminate his services. Under the circumstances the Bombay Dock Labour Board is a necessary party to the present reference. It is submitted that under the circumstances the reference is not tenable. It is averred that when the services of the workman were terminated all legal dues were offered to him by a cheque which he refused to accept. It is averred that the workman was not in continuous service of the Company for 22 years as alleged by him. It is denied that the Company intentionally or negligently not got the name of the worker registered as a Gene-

ral Purpose Mazdoor. It is submitted that the termination of the worker is as per the provisions of the law and he is not entitled to any benefits as claimed.

5. My learned predecessor framed issues at Ex. 4. The issues and my findings thereon are as follows :

Issues	Findings
1. Whether the workman's claim is belated and as such not entertainable?	No
2. Whether the Bombay Dock Labour Board is a necessary party to the present reference ?	No
3. If so, whether the present reference is tenable in law in the absence of Bombay Dock Labour Board as a party to this reference ?	Does not survive
4. Whether the workman was not paid his dues before the termination of his service by the management of the A. B. C. ?	Yes
5. Whether the management of the A. B. C. was constrained to terminate the services of the workman because the Bombay Dock Labour Board had refused to register the name of the workman	Yes
6. Whether the termination of services of Shri Barkia Govind Shigvan, Cleaning Gang Worker w.e.f. 1-1-87 by the management of M/s. Ardeshir B. Cursetjee & Sons Pvt. Ltd., Stevedores & Cleaning & Forwarding Agents, Bombay is justified ? If not, to what relief is the workman entitled ?	The action is not justified. The representative of the workmen is entitled to all monetary benefits between the period of his termination and till his death along with provident Fund and Gratuity amount.
6. What Award ?	As per final order.

REASONS

6. The workmen was terminated from the service by a letter (Ex. 8/3) with effect from 1-1-87. After the termination the workmen raised the dispute by a letter (Ex. 8/6) dated 2nd March, 1988. In other words he raised the dispute after a gap of 15 months. It is tried to argue on behalf of the Management as that is so the claim is belated. It can be seen that as the Management did not settle the claim he approached the Assistant Labour Commissioner for the settlement. The matter could not be settled hence he send the negative report to the Labour Ministry. Thereafter the reference came to this Tribunal for adjudication. The delay of 15 months cannot be said to be stale claim. It can be further seen that no limitation is prescribed under the Industrial Disputes Act for raising any dispute. Further looking to the nature of the present dispute I am not inclined to accept that the claim is belated as argued on behalf of the management.

7. It is tried to argue on behalf of the management that Bombay Dock Labour Board is a necessary party in the present reference. This contention is opposed on behalf of the workman. In the reference relief is sought against the Bombay Dock Labour Board by the workman. As this is so it is not a necessary party. Further it can be seen that the reference can be decided without Bombay Dock Labour Board as the party to the reference. Under such circumstances the contentions that the Bombay Dock Labour Board is a necessary party, is without any merit.

8. After filing of statement of claim the workman expired on 8-10-91. His wife filed an application to bring his legal heir on record, which was granted.

9. There is no oral evidence on behalf of the workman. Advani (Ex. 9). Senior Executive of the Company affirmed on behalf of the management. He accepted that the workman was under the service of the management from 1965. He also accepted that the Provident Fund Pass-book (Ex. 11) issued by the company to the workman. It clearly shows that the workman joined the service of the company in the year 1964. There was no dispute since then, till his termination. The workman was in service of the company. He was a continuous worker within the meaning of Section 25F(b) of the Industrial Disputes Act.

10. Advani affirmed that the worker was informed by the Company that he should get himself registered with the Dock Labour Board as a General Purpose Mazdoor, but, the Bombay Dock Labour Board refused to register the worker and returned his Provident Fund amount. The Board had written to the Company on 4-11-86 (Ex. 8/2) and returned the Provident Fund amount alongwith the interest thereon of the 3 workers. The worker is one of them. His total amount comes to Rs. 14,773. Advani affirmed that when the memo was given to him the workman was given a cheque of Rs. 28,000 which was including all his legal dues as per the account section. But, he is not in a position to clarify the details of the same. Ex. 8/4 is a letter written by Company to the Board. It was informed that the Gratuity amount is not transferred to all those workers, so far as the amount of Gratuity is not on record. As the Provident Fund amount is there one has to accept the amount of Rs. 23,000 which includes the amount of Gratuity.

11. It is not in dispute by the memo (Ex. 8/3) dated 28-11-86, the workman was informed that he was discontinued with effect from 1-1-1987 and this letter has to be treated as the notice of termination. There is no mention that he has to collect the payment of retrenchment alongwith other dues. In this letter it is mentioned that as he was not registered as the General Purpose Mazdoor by the Bombay Dock Labour Board hence he cannot be employed by them as per the existing scheme. It is not in dispute that the Company was not in a position to continue the service as he was not registered, but when he was retrenched it was necessary for the Management to comply with section 25-F of the Industrial Disputes Act. The section reads as under :

"No workman employed in any industry, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) The workman has been given one month's notice in writing,.....

(b) The workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen day's average pay (for every completed year of continuous service) or any part thereof in excess of six months, and

(c) notice in the prescribed manner is served.
....."

12. It is argued on behalf of the workman that the provisions of Section 25F (sub) are held to be mandatory by the different authorities of the Supreme Court. In *Mohan Lal and Bharat Electronics Limited* 1981 I LLJ 1981 Their Lordships have held that the principle requisite for the valid retrenchments as laid down in Section 25-F, if not complied with, retrenchment bringing about the termination of services was ab initio void. In the memo by which the services of the workman were terminated, there is no mention of details of retrenchment compensation. It can be further seen that the witness of the Management was also not in a position to state the same. The records speak that when the notice of retrenchment was given the worker was not paid any compensation. The amount offered later on cannot be said to be in compliance with Section 25-F of the Industrial Disputes Act. It is well settled principle that if the retrenchment is illegal then the cessation of the service of the workman as alleged is not correct. He remain to be in the service resulting into entitlement of all benefits. In this particular case, the workman deemed to be in service from 1-1-1987 till his death i.e. 8-10-1991. He is entitled to all monetary benefits which he would have received in this period while he was treated to be in service. As he expired his legal heirs are entitled for the monetary benefits, Advani admitted that the workman had not accepted the cheque of Rs. 28,000 which was offered to him.

13. I am with the Management on the point that due to the instructions of the Bombay Dock Labour Board and with the existing law the workman being not registered with the Bombay Dock Labour Board as the General Purpose Mazdoor, they were not in a position to continue him. They have no way but to remove him. They could have done so following the due procedure namely paying him Compensation as contemplated under Section 25-F of the Industrial Disputes Act. After looking to the provisions which I have referred to above. It does not enable the Management to remove a continuous worker like that of the workman without following the procedure contemplated under the said Section. Under such circumstances, even though the Management has taken such a step in view of the letter of the Bombay Dock Labour Board had not complied with the procedure for retrenchment. They are liable to pay the dues of the workman treating him to be in continuous service from the date of termination till his death. For all these reasons I record my findings and issues accordingly and pass the following order:—

ORDER

1. The termination of service of Shri Barkia Govind Shigvan, Clearing Gang Worker w.e.f. 1-1-1987 by the Management of M/s. Ardesht B. Cussetjee and Sons Pvt. Ltd., Stevedores and Clearing and Forwarding Agents, Bombay is not justified.
2. The Management is directed to pay the dues to the heir of the workman treating the workman in service for the period between 1-1-1987 to 8-10-1991 i.e. till his death.
3. The legal representatives of the deceased workman are also entitled to the Provident Fund amount and Gratuity amount if not received earlier.
4. The Management to pay Rs. 300 as the cost of this reference to the workman and to bear its own.

S. B. PANSE, Presiding Officer

नई दिल्ली, 12 सितम्बर, 1995

का. शा. 2701.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधकों के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में, औद्योगिक अधिकरण, अहमदाबाद के पक्षों को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-9-95 को प्राप्त हुआ था।

[संख्या पुन-12012/159/91/आई.आर.बी.-2]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 12th September, 1995

S.O. 2701.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on 8-9-95.

[No. L-12012/159/91-IR(B.II)]

BRAJ MOHAN, Desk Officer.

ANNEXURE

BEFORE SHRI D. V. JOSHI, PRESIDING OFFICER INDUSTRIAL TRIBUNAL, AHMEDABAD
Reference (ITC) No. 50 of 1991

ADJUDICATION

BETWEEN
Punjab National Bank
Regional Office

Ahmedabad. . . First Party

AND

The Workmen employed under it. . . Second Party

In the matter whether the action of the management of the Punjab National Bank, Regional Office, Ahmedabad and through its officers, in treating the unauthorised absence of Sh. G. A. Warialani, Clerk/Go-down Keeper, Punjab National Bank, Fatchganj Branch, Vadodara as voluntary retirement and thereby discontinuing him and not allowing him to resume duties, is proper, legal and justified? If not to what relief the workman is entitled and what directions are necessary in the matter?

APPEARANCES :

Shri K. V. Shah, learned Advocate for the first party.

Shri K. R. Mehta, learned representative for the second party.

AWARD

An industrial dispute between the above parties has been referred by the Desk Officer, Government of India, Ministry of Labour, New Delhi vide his order No. L-12012/159/91-1 RB-2 dated 1st August, 1991, for adjudication initially to the Industrial Tribunal of Shri V. H. Thakore and subsequently it has been transferred to this Tribunal by an appropriate order of the Government. The dispute is as stated in the Schedule of the above order.

2. The second party (hereinafter referred to as 'the concerned workman') has filed the statement of claim at Ex. 4 contending, inter alia, that he was initially appointed as Clerk-cum-Godown Keeper in the services of Punjab National Bank w.e.f. 16-11-79. That the service conditions of the Bank employees are governed by Sastry Award, Desai Award and subsequently by few industry-wise bipartite settlements modified from time to time. That the concerned workman had undergone medical treatment for the disease of piles from 27-3-89 to 27-7-89 and on completion of his medical treatment, he resumed his duties in the Bank on 28-7-89 alongwith the medical certificate issued by the Regd. Medical Practitioner. That the services of the concerned workman was abruptly, arbitrarily and illegally terminated w.e.f. 1-10-89 vide letter No. FUB : S : 14 dated 3-10-89 indicating the reason that the concerned workman had voluntarily retired from the services of the Bank w.e.f. 1-10-89. The concerned workman submits that the Bank has not conducted any departmental inquiry against him and thus grossly violated the principles of natural justice with mala fide intention. The action of the Bank in terminating services is also in gross violation of the mandatory provisions of Section 25 F reads with Section 2(oo) and 25 J (2) of the Act for retrenching the employee for alleged unauthorised absence. It is mandatory on the part of the Bank to hold a departmental inquiry against unauthorised absence and such a provision was not followed by the Bank and no retrenchment compensation was paid to the concerned workman at the time of dismissing the service of the workman w.e.f. 1-10-89. Thus, the Bank has committed breach and violated the provisions contained in bi-partite settlement. On the above facts, the concerned workman claims reinstatement on his original post with full back wages.

3. The Bank has filed its written statement at Ex. 7 contending, inter alia, that the averments made and allegations levelled in the statement of claim are denied. The Bank raises preliminary objection that the present reference is legally not tenable in view of the fact that the second party has voluntarily retired from his services and he did not care about notices, directing him to report for duties, dated 29-3-89, 6-4-89, 3-5-89, 12-5-89, 7-6-89 and 21-6-89 from the Branch Manager. Further, the concerned workman absented himself from his duties without any information for more than 90 consecutive days hence notice dtd. 30-6-89 was served by the Asstt. General Manager, Ahmedabad Region advising him to report for duties within 30 days of the said notice failing which he would be deemed to have

voluntarily retired from the service of the Bank. The said notice was given in terms of the provision of bi-partite settlement. The subject joined his duties after a gap of more than 4 months, or one day on 28-7-89. He, however, further, absented himself from duties and again under the provision of bi-partite settlement he was given yet another show cause notice 1-9-89 by Asstt. General Manager, Ahmedabad advising him to report for duties within a period of 30 days of the said notice failing which it should be deemed that he had voluntarily retired from the service of the Bank. That he did not join services and accordingly he was deemed to have voluntarily abandoned his service from the Bank under the provisions of the said settlement. Accordingly, the final order dated 3-10-89 was issued and his PF and gratuity dues were settled. It is, therefore, very clear that the present matter is outside the scope of Industrial Disputes Act and liable to be rejected on this ground.

4. In reference to the various allegations levelled in the settlement of claim of concerned workman, the Bank has virtually denied all of them and it further contents that the workman was deemed to have voluntarily retired in accordance with the provisions of bi-partite settlement and the same was not by way of punishment and there was no requirement of holding any inquiry. It is also denied that the principle of natural justice has been violated and as such the present reference is required to be dismissed.

5. The concerned workman has further filed rejoinder against the statement of claim at Ex.8 denying various contentions raised by the Bank and reiterated the averments made and allegations levelled in his statement of claim.

6. The Bank has further filed written rejoinder at Ex.12 against the rejoinder filed by the concerned workman at Ex.8 contending that the provisions of I.D. Act more particularly 2(oo) of 25-F and 25-G has no relevance whatsoever to the facts and circumstances of the present case and further contents that the Bank has acted in accordance with the provisions of bi-partite settlement about abandonment of service as the second party absented himself from duties w.e.f. 27-3-1989 and was deemed to have voluntarily retired from the services of the Bank by an order dated 3-10-1989.

7. The parties have filed various documents alongwith list and all of them have been exhibited by mutual consent of the parties. All documents which are more or less correspondence inter se between the parties and some other documents which pertain to the services of the concerned workman are not in dispute by parties. The concerned workman has examined himself on oath at Ex.33 and has closed his oral evidence vide purshis Ex.35. The Bank has examined the oral evidence of Shri Rajesh Vishnath Kumar at Ex.61, Shri Vishnuprasad Deybanker Dave at Ex.78 and Shri Rambhai Shankerbhai Patel Ex.95. It may be mentioned that after oral evidence of Bank witnesses was over the second party-concerned workman moved an application Ex.98 requesting to allow them to examine

one Shri Kiran Madhavray Gaskadvi. The court allowed the application and at the later stage oral evidence of Shri Kiran Madhavray Gaskadvi was recorded at Ex.99 on behalf of the concerned workman. The Bank submitted its closing Purshis-oral evidence vide Ex.97 and the concerned workman further submitted his closure of oral evidence vide Ex.100.

8. The concerned workman has filed his written argument at Ex.102 alongwith xerox copies of various decisions. The Bank has filed its written arguments at Ex.105. At the outset, it requires to be mentioned that there is no dispute between the parties about certain facts and these facts are admitted by both the parties. That the concerned workman was absent from duties from 27-3-89 to 27-7-89. It is also not in dispute that he resumed duties on 28-7-89 and worked for two days and further remained absent till 30-9-89. It is also not in dispute that earlier workman was served with various notices by the Bank to resume duties on various dates as mentioned in its written statement. It is also not in dispute that workman's legal dues were settled after his alleged termination.

9. The main thrust of arguments submitted on behalf of the workman at Ex.102 is that his services are not terminated in accordance with bi-partite settlement binding on the parties. Shri Mehta, on behalf of the concerned workman submits that the services of the concerned workman as alleged terminated by the Bank are neither in conformity with the provisions of the I.D. Act nor in conformity with the binding provisions of the Sastri award, Desai award and subsequent bi-partite settlements which are binding on the parties. According to Shri Mehta, the termination of service of the concerned workman by the Bank amounts to retrenchment as defined under the I.D. Act and the conditions precedent in respect of retrenchment have not been complied by the Bank. The retrenchment of the services of workman becomes ab initio void. As such the workman is entitled to be reinstated on his original post with full back wages and all consequential benefits. In the alternative, Shri Mehta submits that the Bank has failed to comply with the mandatory provisions of bi-partite settlement about abandonment of services by voluntary retirement of an employee from the services of the Bank as procedure about communication laid down in the bi-partite settlement has not been scrupulously followed on behalf of the Bank. Shri Mehta contends that bi-partite settlement clearly stipulates and lays down that in case of a workman who is alleged to have abandoned service by abstaining himself for more than 90 days from duties are required to be sent by Regd. post acknowledgement due. Admittedly, the Bank has not served second show cause notice dated 30-9-89 by Regd. post acknowledgement due which the workman flatly denies having received. Mandatory provisions, being grossly violated, it cannot be assumed that the workman has abandoned the service. Shri Mehta strongly relies on two decisions of the Honourable Gujarat High Court which are reported in 1987(1) GLH, 274 and 1985, GLH, 361. According to Shri Mehta, both these decisions very strongly emphasise that a communication which is required

to be sent by a particular mode of postal delivery must be sent as mentioned in the statute. If the mandatory provisions of statute are violated or are not complied with then such a communication cannot be considered to be good delivery, and the Court, while considering the mode of delivery which is mandatory provide in the provisions of law, should be extra cautious about drawing any presumption about good delivery of the postal service. In the instant case, the material-second show cause notice mentioned above has not been delivered by the Bank as provided in the bi-partite settlement by Regd. post acknowledgement due, which is a bad delivery and, therefore, there is no communication at all in the eyes of law and as such the consequence flowing from such communication can have no effect whatsoever about the abandonment of service by the concerned workman.

10. The Bank also in its written argument at Ex. 105 submits that the alleged retrenchment as contended by the workman has no consequence on the action of the Bank because Bank does not contend that it has terminated the services of concerned workman by way of retrenchment, but it had resorted to provisions existing bi-partite settlement which permits and authorises Bank to infer and assume voluntary retirement in case of an employee who remains absent for more than 90 consecutive days and inspite of notice does not report for duties within 30 days thereafter. In the instant case, the concerned workman has not complied with the directions issued by the Bank. According to Bank, it is an admitted position that the concerned workman remained absent for more than 90 consecutive days and he was intimated to resume duties and it is also not in dispute that he resumed duties for 2 days intermittently and subsequently he remained absent. A communication to that effect was sent to him but the concerned workman failed to respond the direction and instructions issued in the second show cause notice dated 30-9-1989 and consequently his services were put to an end by order dated 3-10-1989. Shri K. V. Shah submits that the Bank has, in its legitimate right and after giving ample opportunity to the concerned workman, terminated his services in accordance with bi-partite settlement. The action of the Bank is fair, reasonable and legal. As such the workman does not deserve any relief claimed in the statement of claim and the present reference is required to be rejected in toto.

11. As mentioned earlier, the oral evidence is recorded on behalf of both the parties. However, the controversy about alleged termination or alleged voluntary retirement becomes very much narrowed down and the only point which requires consideration is whether the services of the concerned workman are terminated which amounts to retrenchment as alleged by him or in the alternative whether his services are terminated in violation of the mandatory provision of bi-partite settlement. In my opinion, the parties are very much agreed about these two points and there is no divergence except these two issues between the parties.

12. In the first instance, if we consider the alleged termination of the concerned workman by way of

retrenchment as provided under the I.D. Act, then it becomes amply clear that the conditions precedent as laid down in the I.D. Act about retrenchment having not complied with the termination of service of the concerned workman, prima facie, becomes void ab initio. But according to Bank that is not the case. The Bank contends that it has not resorted to the provisions of the I.D. Act and has terminated the services of the concerned workman. The Bank relies on the ruling delivered by the High Court of Andhra Pradesh reported in 1 L.L.J. 1990 on page 533 between T. Venka'swarlu and Branch Manager, State Bank of India, Vijayawada. If we considered the judgement of Honourable High Court relied upon by Shri K. V. Shah, in my opinion, the contention raised on behalf of the concerned workman about alleged termination by way of retrenchment does not survive. The Honourable High Court has considered in detail and in right earnest the provisions of I.D. Act and corresponding provisions of bi-partite settlement vis-a-vis and has come to the conclusion that the provisions of bi-partite settlement are more beneficial and where a settlement provides a better legal right or condition of service which is more beneficial to the workman than the one provided in I.D. Act the latter does not override former and in full agreement with the judgment of the Honourable High Court; I am of the opinion that the contention raised on behalf of the Bank that the services of the concerned workman are not terminated by way of retrenchment as provided under the Act is required to be accepted and on this count the contention raised on behalf of the concerned workman does not survive.

13. This takes us to consider the only controversy remained between the parties about the voluntary abandonment of service as provided in bi-partite settlement. Now service conditions of the Bank employees are governed by Sastri award, Desai award and few bi-partite settlement modified from time to time. These facts are not in dispute between the parties. The xerox copies of awards/settlement are produced with list Ex. 89 (Ex. 60, 91, 92 & 93). Ex. 60 is the xerox copy of Sastri award and para 519 reads as under :—

“Issue of notices and orders.—Notices which are required to be given shall be served individually on the employees affected and their acknowledgements taken, and shall also be exhibited on the notice boards of the bank at the offices or establishments concerned. Such notices as are so exhibited shall be in English and also in the principal language of the district or locality in which each such office or establishment is situated. Any notice, order, charge-sheet, communication or intimation which is meant for an individual employee shall be in language understood by the employee concerned. In the case of an absent employee notice shall be sent to him by registered post, with acknowledgement due.”

14. Ex. 92 is the xerox copy of bi-partite settlement dated 19-10-1966 and its para 16 reads as under :—

“Any notice, order, charge-sheet, communication, or intimation which is meant for an individual employee, shall be in a language understood by employee concerned. In the case of an absent employee, notice shall be sent to him by registered post with acknowledgement due, if an employee refused to accept any notice, order, charge sheet, written communication or written intimation in connection with disciplinary proceedings when it is sought to be served upon him, such refusal shall be deemed to be a good service upon him, provided such refusal takes place in the presence of atleast two persons including the person who goes to effect services upon him. Where such notice, order, charge sheet, communication or intimation is sent by registered post with acknowledgement due, the same shall, at the discretion of the officer of the bank concerned, be deemed to have been duly served upon the employee, if the same has been refused by the employee.”

15. Ex. 93 is the xerox copy of bi-partite settlement dt. 17-9-84 and its para 4 reads as under :—

“In partial modification of Clause 19.16 of the First Bipartite Settlement dated 19th October, 1966 and corresponding provision in any Award or Settlement of any bank, where any notice, order, charge-sheet, intimation or any other official communication which is meant for an individual employee is sent to him by registered post acknowledgement due at the last recorded address communicated in writing by the employee and acknowledged by the bank, the same is to be deemed as good service.”

16. Now the provisions of Sastri award and bi-partite settlements reproduced above clearly indicate that any communication sent to an individual employee should be by Regd. Post Acknowledgement Due and Ex. 92 bi-partite paragraph 19.16 clearly lays down emphasis that in case of an absent employee notice shall be sent to him by Regd. post Acknowledgement due.

17. It is amply clear that in the instant case before us the Bank has not complied with this mandatory provision of bi-partite settlement about sending the communication Ex. 64 dt. 1-9-89. It is also an admitted position that this notice was sent to the concerned workman by Postal Certificate only. In any event, it is not sent by Regd. post Acknowledgement due. It is also to be noted that as per the judgements cited by Shri K. R. Mehta mentioned above the Courts should be extra cautious in construing the provisions governing the relations between the parties in case of serious matters which pertains to a very precious right of concerned parties. In both the judgements cited by Shri Mehta the provisions of transfer of property were under consideration and possession of the dwelling house of the concerned occupant was under dispute. The legality and validity

of notice was under consideration before the Honourable High Court and the Honourable High Court has held that strict and due compliance with the provisions of the Act about notice is very much essential and is a must as it involved the occupancy right of the premises which were under dispute. Similarly, in the present case before us the precious right of employment in the Bank is at stake between the parties. If Bank was very much bent upon to resort to the provisions of bi-partite settlement in considering the voluntary abandonment of retirement of the concerned workman then it should have been extra cautious about sending the communication especially the last communication which is admittedly not send by Regd. Post Acknowledgement Due. The concerned workman has flatly denied having received such a communication in his oral evidence. Therefore, in my opinion, when it is the question of precious job which are secured in the present line and unemployment being rampant, the Bank, while terminating the service of the concerned workman, should have been extra cautious in sending communications to the concerned workman. The provisions of the settlement and awards governing service conditions of the bank employees have a statutory force and non-compliance thereof will make the action of the concerned party invalid in the eyes of law and it can be equally considered to be illegal, unjust and unfair. Therefore, in my opinion, the action of the Bank in terminating the service of the concerned workman is bad in law and as such it is required to be set aside and the concerned workman is entitled to be reinstated on his original post.

18. Now, as far as backwages are concerned, it should be borne in mind the concerned workman is also to be blamed himself for the imputed action on his behalf. In these circumstances, 75 per cent of the back wages would meet the ends of justice. I, therefore, pass the following order :—

ORDER

The reference is partly allowed. The Punjab National Bank is hereby directed to reinstate the concerned workman on his original post with 75 per cent back wages and continuity of service from the date of publication of this award. No order as to costs.

SECRETARY

Ahmedabad, 22nd August, 1995.

D. V. JOSHI, Presiding Officer

नई दिल्ली, 12 सितम्बर, 1995

का. अ. 2702.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधक के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-95 को प्राप्त हुआ था।

[संख्या एल-12012/318/91-आई.आर.-I]

पी० जे० माईकल, डेस्क अधिकारी

New Delhi, the 12th September, 1995

S.O. 2702.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of SBI and their workmen, which was received by the Central Government on 12-9-1995.

[No. L-12012/318/90-IRBI]

P. J. MICHAEL, Desk Officer.

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 5 of 1992.

In the matter of dispute between

Sri O. P. Nigam,
State Vice President,
U.P. Bank Employees Congress, (Au. Rep.
Ram Dutt)
295/387 Deendayal Road,
Ashargabad,
Lucknow-226001.

AND

Regional Manager,
State Bank of India,
Regional Office,
M.G. Road,
Lucknow-226001.

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. L-12012/318/91-IR(B-3) dt. 23-1-92, has referred the following dispute for adjudication to this Tribunal—

“Whether the demand of the Union for treating Shri Ramdatt S/o Shri Dwarika Prasad, Canteen Boy, as Regular Hand in Hardoi Branch of State Bank of India with retrospective effect is justified? If not, to what relief the workman is entitled to?”

2. This reference was made at the instance of U.P. Bank Employees Congress through O. P. Nigam, State President. During the pendency of these proceedings O. P. Nigam died. There is no address of concerned workman. Hence the notice was issued at the address of deceased, but no one has turned up since 1992. It appears that the concerned workman is not interested in the case, otherwise he would have approached the

court after the death of representative. Hence my answer to the reference is in the affirmative and against the concerned workman. Consequently he is not entitled to any relief.

3. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 12 सितम्बर, 1995

का.आ. 2703.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-95 को प्राप्त हुआ था।

[संख्या एल-12012/263/90-आई आर (बी-I)]

पी. के. माईकलडेस्क अधिकारी

New Delhi, the 12th September, 1995

S.O. 2703.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of SBI and their workmen, which was received by the Central Government on the 12-9-95.

[No. L-12012/263/90-IR(I)]

P. J. MICHAEL, Desk Officer.

ANNEXURE

BEFORE SRI B.K. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 63 of 1991.

In the matter of dispute between.
Sri Lakshmi Kant
through Sri O. P. Nigam,
295/387, Deendayal Road,
Ashargabad,
Lucknow-226003.

AND

Regional Manager,
State Bank of India,
Region-III,
Lucknow-226001.

AWARD

1. The Central Government, Ministry of Labour vide its notification no. L-12012/263/90-IR(B-3) dt. 22-4-91, has referred the following dispute for adjudication to this Tribunal:—

“Whether the Regional Manager-Region-III, SBI was justified in dismissing Shri Lakshmi Kant Messenger of Bhira Branch w.e.f. 14-7-86 ? If not, to what relief the workman concerned is entitled?”.

2. This reference was made at the instance of U.P. Bank Employees Congress through O. P. Nigam, State President. During the pendency of these proceedings O.P. Nigam died. There is no address of concerned workman. Hence the notice was issued at the address of deceased, but no one has turned up since 1993. It appears that the concerned workman is not interested in the case. otherwise he would have approached the court after the death of representative. Hence my answer to the reference is in the affirmative and against the concerned workman.

Consequently he is not entitled to any relief.

3. Reference is answered accordingly.

B.K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 12 सितम्बर, 1995

का.आ. 2704.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोल्लम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-9-95 को प्राप्त हुआ था।

[संख्या एल-12012/48/91-आई.आर. (बी-II)]

ब्रजमोहन, डैस्क अधिकारी

New Delhi, the 12th September, 1995

S.O. 2704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes as award of the Industrial Tribunal, Kollam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 8-9-1995.

[No. L-12012/48/91-IR(B-II)]

BRJU MOHAN, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL
TRIBUNAL, KOLLAM

(Dated. this the 7th day of August, 1995)

PRESENT :

SRI C. N. SASIDHARAN

INDUSTRIAL TRIBUNAL

IN

INDUSTRIAL DISPUTE NO. 2/95

BETWEEN

The Regional Manager, Central Bank of India,
Regional Office, M. G. Road, Ernakulam 682011.
(By Sri Sidharthan, Advocate, Ernakulam)

AND

Sri C.V. Jacob, Chathamal Veedu, Manjikuzhi,
Kottayam 686 004.

(By Sri Paulson C. Varghese, Advocate,
Ernakulam)

AWARD

This Industrial Dispute has been referred for adjudication to this Tribunal by Government of India as per Order No. L-12012/48/91-IRB II dated nil. The issue for adjudication is the following:—

“Whether the action on the part of the management of Central Bank of India in awarding punishment of discharge from service to Shri C.V. Jacob, Clerk w.e.f. 21-10-1989 is legal and justified? If not, to what relief is the workman entitled?”

II. This reference was originally registered here as I.D. No. 49/91 and while the matter was pending here it was transferred to Industrial Tribunal Idukki due to change in the jurisdiction of this Tribunal. Subsequently the Government of India as per letter dated 13-3-1995 directed this Tribunal to adjudicate this dispute. Accordingly this dispute was again registered here as I.D. 2/95.

III. Sri C. V. Jacob was discharged from service accepting the findings of guilt against him by an enquiry officer who conducted a domestic enquiry into 2 charges raised against the workman. The management justifies that action while according to the workman he is innocent. He has further contended that there was no proper domestic enquiry.

IV. The validity of the domestic enquiry was considered as a preliminary issue and this Tribunal by order dated 15-7-1995 held that the domestic enquiry was properly conducted and the findings are correct. I shall reproduce below that order in full to understand the rival contentions raised by the parties:—

ORDER

This reference concern the discharge of Sri C. V. Jacob with effect from 21-10-1989 from the service of Central Bank of India.

2. The management before initiating disciplinary proceedings against the workman issued a charge-sheet dated 12-4-1988 alleging two charges which are briefly as below :

Charge No. 1. Sri. C. V. Jacob, while working as a Clerk, Palai Branch got discounted a cheque for Rs. 1,600 drawn on Canara Bank, Kottayam by M/s. A.R. Group, Building contractors through the account of Sri. P. A. Abdul Rahiman, A-1 ladies store, Palai who is a HSS account holder of Palai Branch. The said cheque when presented for payment was returned unpaid with the reason “Refer to Drawer”. Sri Jacob, thus, misused his official position for his personal benefit.

Charge 2 : Sri Jacob was working in despatch department. The said cheque purchased by Palai Branch under BP 694 which was to be forwarded to Kottayam branch for clearing along with OCC 422 and OCD 692 in registered cover 2837. But the same was not included in the said cover though the same was entered in the despatch register. When the other two instruments viz. OCC 422 and OCD 692 were realised, Palai Branch enquired the fate, of BP 694.

The workman did not file any explanation to the charge memo. Therefore the management ordered a domestic enquiry in which also the workman did not participate. The enquiry officer found the workman guilty of one charge and appellate authority on appeal by the workman found the workman guilty of the two charges. The management accepting the finding has inflicted the present punishment.

3. The workman has filed a detailed claim statement against his dismissal and the contentions are briefly as under. The workman was working as clerk at the palai Branch of the management Bank and he has uninterrupted service record of so many years. While working so he was issued a memo dated 2-1-1989 alleging some misconducts

with regard to discounting of cheque and removal of cheque from a registered cover. He has replied pleading not guilty. The management issued a charge sheet dated 12-4-1988 alleging two charges. The charges are absolutely unsustainable and he is not guilty of the charges. The enquiry officer even after the enquiry was not aware of the nature of the misconducts. Unfortunately the workman could not participate in the enquiry due to his illness. He was represented by his wife with medical certificate on all postings of the enquiry and application for adjournment was also submitted. But the enquiry officer rejected the applications for adjournment and declared him ex-parte. He was not informed of such a decision with ulterior intention to victimise him. Qualified Doctors certified that the workman was suffering from psychological observation and assessment and advised him to stay in the hospital for few more days. The enquiry officer without giving reasonable time to the workman to recover from the illness and to participate in the enquiry arbitrarily completed the enquiry. The action of the enquiry officer is illegal and he failed to consider that the workman is suffering from mental depression. The action is unjustified and flagrant violation of natural justice. The findings of the enquiry officer are unsustainable and unsupported by legal evidence. It is perverse also. It is also stated that the punishment imposed is severe and disproportionate. According to him he is unemployed and it is not possible to get an employment at the stage. The prayer is for reinstatement in service with all benefits.

4. The management opposes the claim statement. The contentions advanced by the management are briefly as under :

The workman approached one Shri P.A. Abdul Rahman, an account holder of the Palai Branch and requested him to discount a cheque for Rs. 1,600 and got it discounted. The cheque was purchased by the Palai Branch and when it was sent for collection it is returned unpaid with the remark "referred to the drawer". So the action of the workman in approaching a customer for discounting a cheque for himself and the subsequent dishonouring is highly irregular. He thus himself used his official position for his personal benefit and therefore guilty of misconduct under clause 19.5.(j) of the Bipartite Settlement dated 19-10-1986. The workman again removed a cheque while working as despatch clerk and committed the second charge as detailed in the charge memo. Though he was served with charge memo he did not submit any explanation. Hence domestic enquiry was ordered. The enquiry officer adjourned the enquiry on twice accepting the request and medical certificate. He was declared ex-parte on the third posting as he was avoiding departmental enquiry by producing medical certificate of different doctors through his wife. The tactics adopted by the workman was to delay the enquiry

proceedings. He did not turn up on any of the subsequent days fixed for the enquiry despite giving him notice about the sittings. The enquiry officer has given ample opportunity to the workman to defend his case and there was no denial of natural justice. There is no violation of Principles of natural justice. He was served with copy of day today enquiry proceedings with intimation about the subsequent sittings. All formalities under Bipartite settlement were observed in the enquiry proceedings. The charges levelled against the workman were proved by documentary as well as oral evidence. After verifying the entire enquiry record and the findings of the enquiry officer the disciplinary authority also agreed with the findings of the enquiry officer. Before issuing the punishment he was given a further chance. The punishment was imposed after considering all the aspects. The appellate authority also considered the entire enquiry proceedings before confirming the punishment. The workman was chargesheeted on a prior occasion also and he was found guilty in the departmental enquiry. He was awarded a punishment or discharge from service by the disciplinary authority which was subsequently reduced to stoppage of three increments permanently by the appellate authority by giving him an opportunity to mend himself. But he has not changed his attitude and keeping such a person in the service of banking institution will be highly risky. The management denies all other allegations. The action of the enquiry officer was not arbitrary. There is no perversity in the findings of the enquiry officer and the punishment imposed is fair and proportionate. The workman is not entitled to any relief. The workman has subsequently filed a petition stating that the documents produced in the enquiry were not certified under the Bankers books Evidence Act and the management failed to produce original documents. The management has filed a counter stating that originals were produced along with the copies and the copies are duly certified.

5. The workman has a contention that the enquiry was conducted in violation of the principles of natural justice and the findings are perverse and not supported by legal evidence. Therefore legality and validity of the domestic enquiry was considered as a preliminary issue. The enquiry officer was examined as MW1 and the enquiry file containing the enquiry proceedings, connected papers, statement of witnesses and the findings of the enquiry officer has been marked as Ext. M1. The workman has also given evidence as WW1.

6. The main point of attack against the enquiry is that the enquiry was conducted without affording sufficient opportunity to the workman to defend his case. According to the learned counsel for the workman the enquiry officer failed to consider that the workman was suffering from mental depression and he was undergoing treatment and also that the enquiry officer failed to wait till the workman was recovered from his

illness. It is also the case that because of the mental depression the workman could not submit any proper explanation to the charge memo. It is evident from Ext.M1 enquiry file that the workman was given notice of the first posting of the enquiry and he produced a medical certificate through Palai branch manager. The enquiry was adjourned to 30-5-1989 with sufficient notice to the workman. On 30-5-1989 also he did not attend the enquiry and the enquiry was adjourned to 8-6-1989. On that day also he did not turn up. Since the workman produced medical certificate from different doctors the enquiry Officer felt that it was only a tactics of the workman to delay the enquiry proceedings and hence he was declared ex-parte. This was admittedly informed to the workman by the enquiry officer. The enquiry officer has categorically deposed that the workman or his wife never appeared before him and the application and medical certificates were submitted through Palai branch manager and also through the presenting officer of the management. Though the workman was set ex-parte on 8-6-89, the enquiry was adjourned to 15-6-1989 with notice to the workman which he was admittedly received. He did not turn up and not moved any application for adjournment or produced medical certificate. As per the medical certificate produced by him on 1-6-1989 rest was advised for 15 days only. Though he was admittedly informed that he was set ex-parte on 8-6-1989 he has not taken any steps to set aside that decision and attempted to prove the genuineness of the medical certificate which was doubted by the enquiry officer. Since the workman failed to attend on 15-6-1989, the enquiry was proceeded and it was again adjourned to 24-6-1989.

7. The workman has admitted that he was served with notice regarding posting of the enquiry on 26-4-1989. Thereafter the enquiry officer has served the workman copy of the enquiry proceedings with a letter dated 19-6-1989 affording opportunity again for participating in the enquiry. Again when the workman failed to attend the enquiry on 24-6-1989 the enquiry officer issued notice which was also admittedly received by the workman. Then again copy of the argument note of the management was also admittedly served on the workman. He has requested 15 days time for reply which was also allowed. He has submitted a reply dated 26-7-1989 totally denying the charges. There is no allegation that he was not given opportunity to defend his case. It is thus clear that the enquiry officer has afforded sufficient and reasonable opportunity to the delinquent to participate in the enquiry. No doubt the action of the enquiry officer in setting the workman ex-parte on 15-6-1989 though as per the medical certificate produced by the workman on 1-6-1989

he was advised rest till 15-6-1989 is not fully correct. But the enquiry officer doubted the genuineness of the medical certificate which was informed to the workman and he has not taken any steps to prove the genuineness. The enquiry officer even after setting the workman ex-parte has issued notice regarding the subsequent postings also affording sufficient opportunities to participate in the enquiry. But the workman failed to do so. Therefore the action of the enquiry officer is justified. So the contention that the enquiry was conducted without affording reasonable opportunity and in violation of the principles of natural justice is devoid of merit.

8. According to the workman because of his mental depression he could not file explanation to the charge memo and he could not participate in the enquiry. It has come out in evidence from the workman as WW1 before this Tribunal that while treatment was going on he was aware that the enquiry is proceeding. He has further stated that his wife told him about that and that he was in a position to understand things which was told to him. The above statement of the workman make it clear that he was conscious of the conduct of the enquiry and he was aware of what was happening. Even then he did not participate in the enquiry on any date though he was given notice of every posting by the enquiry officer. He has not produced any medical certificate after 1-6-1989 showing that he was under treatment or under medical observation after 15-6-1989. So the argument on behalf of the workman that he could not give any explanation to the charge memo and he could not participate in the enquiry due to illness cannot be accepted.

9. The learned counsel for the workman has a contention that the records produced in the enquiry were not duly certified as per Sec.2(8) of the Bankers Book Evidence Act and those documents cannot be acted upon in the absence of originals which were not produced. The enquiry officer has deposed categorically that the management has produced the documents certified by the Branch Manager and whenever required original documents were also produced. On a perusal of the documents relied on by the enquiry officer it is evident that the material documents are duly certified by the branch manager. Therefore, the decision relied on by the learned counsel for the workman reported in (1987 II LLJ 533) has no application here. Hence this contention is only to be rejected.

10. On behalf of the workman there is yet another contention that the findings of the enquiry officer are not supported by evidence and also perverse. On going through the evidence adduced in the enquiry it is clear that the management has examined the person to whom the workman

approached for discounting the cheque and that witness as MW2 in the enquiry has given detailed statement regarding the misconduct of the workman. The evidence of branch manager Palai Branch, the bill collector Palai branch and the scale-I officer clearly establish the charges levelled against the workman. The deposition of these witnesses are supported by documents as well. The evidence adduced on behalf of the management clearly establish the charges levelled against the workman. By no stretch of imagination it can be said that the findings of the enquiry officer regarding charge No. 1 are perverse. But the enquiry officer failed to analyse the evidence properly while considering charge No. 2. The findings of the enquiry officer with regard to second charge is not justified as the evidence on record clearly prove this charge also and the appellate authority on detailed consideration of the evidence found the workman guilty of both charges. This contention of the learned counsel is also without force.

11. From the discussion made above I have no hesitation to hold that the enquiry was conducted fully in compliance with the principles of natural justice and the findings of the enquiry officer with regard to charge No. 1 are proper, valid and supported by legal evidence.

12. In view of the above, I hold that the enquiry is proper and valid.

V. The question now remains for consideration is regarding the propriety of punishment. The learned counsel for the workman would contend that the enquiry officer found the workman guilty of only one charge but the disciplinary authority without serving notice to the workman held him guilty of two charges. This according to the learned counsel is violative of the principles of natural justice. Further argument is that even the finding of the enquiry officer regarding the first charge cannot also stand as the Bipartite settlement which is a material document was not produced in the enquiry. The further argument is that the punishment imposed is excessive and the workman is unemployed since his discharge from the Bank. He is the only bread winner of the family and hence he deserves sympathetic consideration and reinstatement in service. This argument is countered by the learned counsel for the management. According to the learned counsel non production of the Bipartite settlement was never challenged by the workman at any stage of the enquiry or before appellate authority or in the claim statement filed before this Tribunal and hence that argument is only an after thought. With respect to the finding of the disciplinary authority regarding the second charge it is pointed out that the workman was given show cause notice dated 4-10-1989 affording opportu-

nity to the workman by the disciplinary authority and the workman failed to respond. Further this contention was not raised before the appellate authority and the disciplinary authority came to the conclusion on the basis of the evidence available in the enquiry and after affording opportunity to the delinquent. According to the learned counsel the charges now proved against the workman are grave enough warranting maximum punishment. Further the workman had committed the very same charge earlier and he was allowed to continue on humanitarian ground and if such a person is allowed to continue it will affect the reputation of the Bank which is already lost due to the conduct of the workman. Further it has affected the confidence of the customer in the Bank and the continuance of such a person will adversely affect the Banking system itself. It is also pointed out that when the workman was found guilty of the charges in a properly conducted enquiry and in the absence of any evidence regarding victimisation or unfair labour practice this Tribunal has no jurisdiction to interfere with the punishment.

VI. As I have held in the order quoted above enquiry officer found the workman guilty of charge No. 1. It is true that the evidence in the enquiry proves charge No. 2 as held by the disciplinary authority. But the disciplinary authority came to that conclusion without affording any opportunity by the workman. No doubt the workman was given a show cause notice dated 4-10-1989. But by that notice the workman was informed about the finding already entered into by the disciplinary authority regarding the second charge and the workman was afforded opportunity to submit anything only regarding the proposed punishment by discharge from service. This show cause notice itself shows that the disciplinary authority entered his finding regarding second charge arbitrarily and the action of the disciplinary authority is violative of the principles of natural justice. Hence that finding had to do. I seek support for the above from a decision of the High Court of Kerala in *Thobias V. State of Kerala* (1987 II LLJ 301). The High Court while considering a similar question has held thus in para 4 of the judgement :—

“When the enquiry officer's findings are favourable to the petitioner a dissent from such findings should have been made only after giving the affected person an opportunity. Principles of natural justice cannot be given a go-bye even for making administrative orders. The requirements of natural justice in a given case must depend to a great extent on the facts and circumstances of each case.”

It is true that the workman has not raised a specific contention before the appellate Authority regarding the action of disciplinary authority stated above. But that cannot justify the findings of the disciplinary authority in the given circumstances particularly in the light of the above decision.

VII. Now remains charge No. 1. The argument that Bi-partite settlement was not produced has been advanced for the first time. Though sufficient opportunities had been afforded the workman failed to participate in the enquiry and raise such a contention. The management was never called upon to produce the Bipartite settlement. Before the appellate authority also no such contention was raised. Even in the claim statement filed before this Tribunal also no such specific contention is seen raised. Hence this contention can only be considered as an after thought and cannot be accepted. Further it is not established that any prejudice has been caused to the workman due to the non production of the Bipartite settlement. Charge No. 1 is definitely grave enough considering the position held by the workman in the Bank. He was working as a clerk in the Bank where the service of the Bank is regarding the money transaction. The workman was not working as a ordinary clerk in a Government Department. The conduct of the workman definitely affected the reputation of the Bank and the confidence of the customer in the Bank. It may be recalled that the workman had committed almost the very same misconduct earlier and he was ordered to be discharged from service. But he was allowed to continue on humanitarian ground affording opportunity to mend his ways. But there is no change in his conduct and he has repeated the very same misconduct. Continuance of such a workman in the Bank is not at all advisable. Considering the entire circumstances in toto I am of opinion that the punishment of discharge imposed by the management Bank is only commensurate with the gravity of the misconduct proved against the workman. That being the position no interference is called for from this Tribunal.

VIII. In this case the enquiry was found to be proper and valid. The workman is found to be guilty of the same misconduct for the second time. There is no evidence of victimisation or, unfair labour practice. In this state of affairs no interference is called for from this Tribunal in the matter of punishment. This view is supported by a decision of the High Court of Kerala in Chala Beedi Workers Industrial Co-operative Society V. Bharathan (93 II KLT short note No. 10). In that case the court while considering the scope and ambit of the provisions contained in Sec. 11-

A of the Industrial Disputes Act (the Act for short) the court held thus:—

“When a proper enquiry has been held by an employer on the charge of misconduct and the finding of misconduct is a plausible conclusion emerging from the evidence adduced at the said enquiry and the punishment was awarded on the basis of the finding of the enquiry officer the Tribunal has no jurisdiction to sit in judgement over the decision of the employer as an appellate body and the interference of the decision of the employer will be justified only when the findings arrived at by the enquiry officer is perverse or management is guilty of victimisation, unfair labour practice or malafide.”

The High Court of Rajasthan in a latest decision in Ansar Mohammed V. Judge, Industrial Tribunal and Labour Court, Udaipur (1995 LAB. I.C. NOC|23) (Raj) while considering the powers of Tribunal under section 11-A of the Act held as below :—

“The power under S. 11-A of the Industrial Disputes Act is not unbridled and cannot be exercised arbitrarily or without application of mind to the acts and circumstances of each case. Therefore where a workman was dismissed on the charge of misconduct and he was found guilty of committing same misconduct on earlier occasions also, the order of reinstatement of workman passed by the Industrial Tribunal was liable to be interfered with as it was based in excessive exercise of jurisdiction.”

The above decisions fully support the view taken by me above.

IX. In the result, an award is passed holding that the action on the part of the management of Central Bank of India in awarding punishment of discharge from service to Sri. C.V. Jacob. Clerk with effect from 21-10-1989 is legal and justified and therefore he is not entitled to any relief.

C. N. SASIDHARAN, Industrial Tribunal.

APPENDIX

Witness examined on the side of the Management MW1. Sri. M. P. Mallia.

Witness examined on the side of the workman WW1. Sri. C. V. Jacob.

Document marked on the side of the Management.

Ext. M1 Enquiry file containing, enquiry proceedings, enquiry report, statement of witness and connected documents.

नई दिल्ली, 13 सितम्बर, 1995

Raghunath S. Lonkar (Second Party) over the following demand:—

का.आ. 2705.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकाम के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पुणे के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-95 को प्राप्त हुआ था।

[संख्या एल-40012/208/92- आई आर (डीयू)]

के वि. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 13th September, 1995

S.O. 2705.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Pune as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 13-9-1995.

[No. L-40012 208/92-IR(DU)]

K.V.B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI B. M. KHODADE,
PRESIDING OFFICER, 1ST LABOUR
COURT, PUNE

Reference (IDA) No. 143/94

Pune Telecommunication, Pune

... First Party.

AND

Shri Raghunath S. Lonkar

... Second Party.

At-Malwadi, Post-Karahri

Tal-Baramati, Dist. Pune.

Subject :—Reinstatement with full back wages
and continuity of service.

APPEARANCES :

Both the Parties are absent.

AWARD

1. The Dy. Commissioner of Labour Court, Pune has made this Reference under Clause (c) of Sub-Sec. (1) of Sec-10 r/w Sub-Cl(5) of Sec-12 of the Industrial Disputes Act for adjudication of the industrial disputes within the meaning of Sec-2(A) of the said Act, for adjudication between Pune Telecommunication (first party) and Shri 2336 GI/95—11

"Whether the action of the management of General Manager, Pune Telecom, Pune in terminating the services of Shri Raghunath S. Lonkar, Ex-casual Labourer is justified? If not, what relief he is entitled to?

2. The second party is constantly absent. Till today, he has not taken steps to file statement of claim. In this view of the position, the Reference stands disposed off for not being substantiated by evidence.

Pune.

Date : 28-3-1995.

B. M. KHODADE, Presiding Officer

नई दिल्ली, 13 सितम्बर, 1995

का.आ. 2706.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकाम डिस्ट्रिक्ट के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-95 को प्राप्त हुआ था।

[संख्या एल-40012/11/93-आईआर (डीयू)]

के वि. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 13th September, 1995

S.O. 2706.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Telecom District and their workman, which was received by the Central Government on 13-9-95.

[No. L-40012/11/93-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

आदेश

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (MP).

नई दिल्ली, 13 सितंबर, 1995

Case Ref. No. CGIT/LC(R)(55)/1994

BETWEEN

Shri Narayandass Raikwar S/o Shri Mallaram
Raikwar, house No. 898, Lalmati,
Dwarka Nagar, Jabalpur (MP)-482001.

AND

The Telecom District Manager, Jabalpur Zone
Jabalpur and the Asstt. Engineer
(Phones-2), Jabalpur-482001.

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri Hemand Sen, Advocate.

For Management : Shri O. P. Namdeo, Advocate.

INDUSTRY : Telecom DISTRICT : Jabalpur-
(MP.)

Dated the 5th September, 1995

AWARD

This is a reference made by the Central Government Ministry of Labour, vide its Notification No. L-40012/11/93-IR(DU) Dated 5-5-1994, for adjudication of the following industrial dispute:—

SCHEDULE

“Whether the management of Telecom Distt. Manager, Jabalpur (M.P.) is justified in terminating the services of Shri Narayandass Raikwar, ex-casual mazdoor w.e.f. 30-4-90. If not, what relief he is entitled to?”

2. Reference was received by the Tribunal on 12-5-94 and since then in spite of the repeated notices the workman has not filed the statement of claim. The workman appeared about a year back. He did not file the statement of claim; that the parties did not appear in last four hearings and the statement of claim of the workman was not also filed. Thus it is evident that the workman is not interested in pursuing the dispute. As such, no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding

का.आ. 2707.—जबकि केन्द्रीय सरकार की यह राय थी कि भारतीय स्टेट बैंक के प्रबंधन और उनके श्रमिकों के बीच औद्योगिक विवाद विद्यमान था, और जबकि केन्द्रीय सरकार की यह राय थी कि उपरोक्त विवाद में राष्ट्रीय महत्व का प्रश्न अन्तर्गम्य था,

और जबकि औद्योगिक विवाद अधिनियम, 1947 की धारा 7(ख) (1947 का 14) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने श्रम मंत्रालय के आदेश सं. एल-12011/15/94-आई.आर. (बी. 1) दिनांक 7-11-1994 के तहत एक राष्ट्रीय औद्योगिक न्यायाधिकरण का गठन किया जिसका मुख्यालय बंबई में रखा गया और उसके पीठासीन अधिकारी के रूप में न्यायविद् श्री आर. जी. सिन्हाकर को नियुक्त किया और उपरोक्त अधिनियम की धारा 10 की उप-धारा (1क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उपरोक्त औद्योगिक विवाद को न्यायनिर्णयन के लिए उपरोक्त राष्ट्रीय औद्योगिक न्यायाधिकरण के पास प्रेषित किया।

और जबकि श्री आर. जी. सिन्हाकर का कार्यनिर्णय 11-5-95 को समाप्त हो गया,

अब इसलिए, एक राष्ट्रीय औद्योगिक न्यायाधिकरण का गठन किया जाता है, जिसका मुख्यालय बंबई में होगा तथा जिसके पीठासीन अधिकारी न्यायविद् श्री आर. एस. वर्मा होंगे और उपरोक्त विवाद को इस निर्देश के साथ न्यायनिर्णयन के लिए उपरोक्त राष्ट्रीय औद्योगिक न्यायाधिकरण के पास प्रेषित किया जाता है कि न्यायविद् श्री आर. एस. वर्मा उस स्थिति से न्यायिक कार्यवाई शुरू करेंगे जहाँ पर न्यायविद् श्री आर. जी. सिन्हाकर ने उसे रोक दिया था और उसे कानून के अनुसार निष्पादित करेंगे।

[सं. एल-12011/15/94-आई.आर. (बी-1)]

पी. चे. मार्टिन, डैस्क अधिकारी

ORDER

New Delhi, the 13th September, 1995

S.O. 2707.—Whereas the Central Government was of the opinion that an industrial dispute existed between the management of State Bank of India and their workmen;

And whereas the Central Government was of the opinion that the above dispute involved a question of national importance.

And whereas the Central Government was of the opinion that the said above dispute should be adjudicated by a National Industrial Tribunal;

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri D. K. Nayak, Presiding Officer.

In the matter of an Industrial dispute under
Section 10(1)(d) of the I. D. Act, 1947

Reference No. 97 of 1993

PARTIES :

Employers in relation to the management of
M/s. Bharat Coking Coal Ltd., Koyala
Bhawan and their workmen.

APPEARANCES :

On behalf of the workmen—Shri D. Mukherjee, Advocate.

On behalf of the employers—Shri Harihar Nath, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, Dhanbad, the 30th August, 1995

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-220012(61)|93-I.R. (Coal-I), dated, the 7th July, 1993.

SCHEDULE

“Whether the action of the management of M/s. B.C.C.L., P.O. Koyala Bhawan, Dist. Dhanbad in dismissing Shri H. N. Singh from the services of the company is justified? If not, to what relief the workman is entitled?”

2. Pursuant to the reference received from Ministry of Labour, Government of India dt. 7-7-93 the details of which are stated above parties were directed to file their respective W.S.-cum-rejoinder if any.

3. W.S. on behalf of the workman was filed on 12-11-93 stating inter alia that the concerned workman Shri H. N. Singh who happens to be the permanent workman in BCCL having unblemished record of service was forced to submit resignation

And whereas the Central Government, in exercise of the powers conferred by Section 7B of the I.D. Act 1947 (14 of 1947) constituted a National Industrial Tribunal vide Ministry of Labour order No. L-12011/15-94-IRBI dt. 7-11-94 with headquarters at Bombay and appointed Justice Shri R. G. Sindhakar as its Presiding Officer and in exercise of the powers conferred by Sub-section (1A) of Section 10 of the said Act, referred the said industrial dispute to the said National Industrial Tribunal for adjudication;

And whereas the term of Shri R. G. Sindhakar expired on 11-5-95.

Now, therefore, a National Industrial Tribunal is constituted with headquarters at Bombay with Justice Shri R. S. Verma as its Presiding Officer and the said above dispute is referred to the said National Industrial Tribunal for adjudication with the direction that Justice Shri R. S. Verma shall proceed with the proceedings from the stage at which it was left by Justice Shri R. G. Sindhakar and dispose of the same according to law.

[No. L-12011/15-94-IRBI]

P. J. MICHAEL, Desk Officer

नई दिल्ली, 13 सितम्बर, 1995

का.आ. 2708.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, भारत कोकिंग कोल लि., कोयला भवन के प्रबंधन के संबंध निधोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, (मं. 2) धनबाद के पक्षों को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-95 को प्राप्त हुआ था।

[संख्याएल-20012/61/93 आर्. (कोल-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 13th September, 1995

S.O. 2708.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal. (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL, Koyala Bhawan and their workmen, which was received by the Central Government on 11-9-1995.

[No. L-20012(61)|93-IR (Coal-I)]

BRAJ MOHAN, Desk Officer

for inhuman treatment and harassment from the side of some officers of the management. However, after realisation of all pros and cons he was again reinstated and thereafter he continued working therein as Typist-cum-Clerk at Koyala Bhawan Hospital.

4. In course of his employment the concerned workman after obtaining sanctioned leave for 3 days with effect from 5-3-84 to 7-3-84 proceeded on leave. But unfortunately after those three days he could not attend his duties in order to attend his ailing wife who ultimately she demised and thereafter the concerned workman became seriously ill resulting abnormality on his mental condition due to shock and worminess of such sad incident. However, it was informed to the management about his illness with prayer for extension of his leave and thereafter he remained under continuous treatment of the doctor.

5. Be that as it may no reply was received from the side of the management either rejecting his prayer or giving any direction in this regard and on recovery from the illness though it was late he reported for his duty to the Hospital Superintendent Koyala Nagar Hospital by a letter dt. 15-1-92 which was received by the management on 17-1-92 and the concerned workman reported for his duty along with the Medical Certificate. The reasons best known to the management, he was not allowed to join on duty and he was directed to wait for some time on the pretext of preparation of notesheet and approval from the higher authority allowing him to resume his duty.

6. On godfaith he waited but unfortunately instead of allowing him duty he was issued with a chargesheet dt. 13/14-3-92 under the signature of Shri A. K. Mukherjee, Chief Medical Officer which is nothing but illegal, unfortunate and against the rules of the Standing Orders as Doctor Mukherjee has no authority to issue such chargesheet. Furthermore, the allegation levelled against the concerned workman in the chargesheet would not constitute the misconduct under the provision of Standing Orders. In spite of that reply was given and an enquiry took place which was absolutely invalid and against law. Dr. A. K. Mukherjee Chief Medical Officer appointed Shri T. P. Jha, Addl. Chief Personnel Manager as Enquiry Officer and with the biased mind Mr. Jha conducted the enquiry in an arbitrary manner and in violation of the principles of natural justice and without giving full opportunity to the concerned workman. Thereafter he submitted a report and pursuant to the said report Dr. A. K. Mukherjee, Chief Medical Officer of M/s. BCCL issued an order of dismissal dt. 17/18-6-92. Thereafter a representation was made but no result was obtained and ultimately he took

shelter of the ALC(C), Dhanbad for conciliation but it failed due to the adamant attitude of the management which resulted this reference. So it is prayed that this Tribunal after holding the order of dismissal and the proceeding of enquiry he basis of such dismissal to be illegal direct the management to reinstate the concerned workman with full back-wages.

7. The management in his W.S.-cure-rejoinder filed on 21-1-94 replied in the following manner. It is stated that the dispute which was brought to the ALC(C), Dhanbad was not legal and valid one and the said fact was stated to the ALC(C) by letter dt. 13-8-92 from the end of the Chief Personnel Manager and so this reference is. It is admitted that the concerned workman was Typist Clerk Grade-II of Koyala Bhawan of the present management as it appears from his appointment letter dt. 26-6-73. It is stated further that a chargesheet was issued from the side of the management under the letter No. BCCL/CMO/F-60/2965-97 dt. 11/14-3-1992 for committing misconduct in the ambit of the Certified Standing Order applicable to all concerned attached to BCCL for absents from duty by the concerned workman on and from 9-3-94 without submitting application for such leave and thereafter the Enquiry Officer appointed legally Mr. T. P. Jha who held the enquiry according to the rule in which the concerned workman participated and on enquiry the charge was established beyond and doubt and the report of such enquiry was submitted to that effect by the Enquiry Officer on 15-5-92 and as the Chief Medical Officer concurred with the report of the Enquiry Officer as regards H. N. Singh the concerned workman was issued with an order of dismissal of the said workman by order No. BCCL/CMO/90/5887-91 dated, 17th/18th June, 1992. It is stated further that the concerned workman was habitual absentee in the year 1981 and he submitted his resignation which was accepted but after lapse of two years on appeal from this side on the ground that he was suffering from diseases he was re-employed as the management took a lenient view and he was posted in the medical department on 20-2-84. After working for a few days the concerned workman left the Headquarters submitting an application for 3 days leave on and from 5-3-84 to 7-3-84 and remained absent for about 8 years till 15-1-92. Therefore, the order of dismissing the concerned workman for his irregular attendance even after his re-employment for such long term of 8 years leads to the point of habitual absentism and thereby the order of dismissal is justified.

8. In the rejoinder it is denied that he had unblemished record of service or he was put to harassment or any injustice has been caused to him. On the other hand it is stated that Doctor A. K. Mukherjee, C.M.O. rightly appointed the Enquiry

Officer and rightly accepted the report of the Enquiry Officer which took place properly and thereby the order of dismissal is in accordance with law and the concerned workman is not entitled to any relief.

9. In the rejoinder reply to the W.S. of the management the concerned workman stated more or less the something which raised in his earlier W.S. and it has been again repeated that the allegation made out in the chargesheet cannot attract the definition of misconduct as per provision of the Standing Order and thereby the Enquiry pursuant to such allegation and report as a result of such enquiry and the action taken by the management following such report are absolutely contrary to the legal provision and he is entitled to get the order of reinstatement with full back wages.

10. In the instant case an objection was raised by the concerned workman about the fairness and propriety of the domestic enquiry held against him resulting to the dismissal from his service. The matter was heard on 25-5-95 where the Enquiry Officer was examined and some documents i.e. including the file of the Enquiry were marked on admission and some documents were marked being formal proof dispensed with. During the course of hearing it was submitted by Mr. D. Mukherjee representing the workman that no challenge is made about the fairness or propriety of the domestic enquiry from the side of the concerned workman and the same issue may be decided in favour of the management at this stage and ultimately it was so held and the matter was fixed for hearing of argument.

11. After hearing of both the parties I am of the opinion that the following points are to be considered to arrive at a right decision :—

1. Whether the charge levelled against the concerned workman is a misconduct in the ambit of the Certified Standing Orders.
2. If so, whether the punishment imposed is proper one, and
3. What relief if any the concerned workman is entitled to?

12. At the very outset we cannot but say that the concerned workman admittedly was a permanent employee of BCCL, Koyala Nagar in the hospital under the said management as Typist/Clerk. It is also not disputed that once he submitted a resignation and again he was reinstated under whichever circumstances it may be as no cogent document is forthcoming in this regard. It is also not disputed that the concerned workman proceeded on leave by submitting an application with effect from 5-3-1984 to 7-3-84

and thereafter he remained absent for long 8 years. It is also not disputed that thereafter he again came to the hospital for joining in his service after long 8 years and submitted an application to that effect but he was issued with a chargesheet dt. 13/14-3-92 alleging misconduct for his habitual absence which was ultimately went against him and the charge was established leading to his dismissal from the service pursuant to order of the Chief Medical Officer, Dr. A. K. Mukherjee dt. 17/18-6-92. The attempt of conciliation before the ALC(C) is not disputed.

13. Already it is held that the enquiry has been admitted to be fair and proper.

14. Keeping in mind those facts I am to consider the said three points to arrive at my decision and to assess whether any relief can be awarded to the concerned workman and to decide whether the action of the management of M/s. BCCL in dismissing the concerned workman is justified and if not to what relief he is entitled to.

15. In support of the contention of the workman Mr. D. Mukherjee appearing for the workman submitted that though it is a fact that after filing application for leave from 5-3-84 to 7-3-84 he did not join thereafter but he sent a telegram and letter which will be established from the letter dt. 9-4-94. Pursuant to the said contention I take into consideration Ext. M-14 which is the letter of BCCL having reference No. BCCL/CMO/84/1440-41 dt. 9/11-4-84 written to Shri S.N.P. Singh, Personnel Manager (MP and W) Karmik Bhawan under the signature of Dr. ERK Titus, CMO (Acting) with a copy to Dr. Mishra, J.C Medical Officer with reference to his letter as mentioned therein.

16. In the said letter Ext. M-14 it is clearly stated that the concerned workman H. N. Singh, Typist-cum-Clerk presently posted at Medical Board, Koyala Nagar Hospital applied for four days leave and has not joined till date and he had sent a telegram to extend the leave.

17. Therefore, this letter is clear enough to show that the concerned workman applied for leave for the days from 5-3-84 to 7-3-84 and he did not join whatever may be the reason but he sent a telegram for extension of his leave. Therefore it cannot be said that he was absent without any intimation. It is not disputed that he reported to resume his duties on 15-1-92 and a chargesheet was issued on 14/15-3-92 for misconduct due to his absence from 5-3-84 without any notice.

18. The moot question which is involved for the decision of the present point in issue is whether the absence after 7-3-84 is absence without intimation or over staying.

19. We cannot devoid of our common sense under any circumstances and applying our common sense we cannot but say that if a person proceeded on leave with application and thereafter he does not join thereafter that constitutes overstay leading to an inference absence without intimation. Therefore, for the purpose of disposal of this reference and the facts and circumstances appearing in the instant case it will be too big a pill to swallow that it can be construed as habitual absentism but it can be said that he overstayed though no doubt it is for a pretty long time and that can be converted into willful or habitual absence if it is proved that there was no reason whatsoever.

20. It is needless to say that the onus lies upon the management when they were causing an enquiry to establish the fact that in course of enquiry no stones was kept untouched to ascertain whether the plea taken by the concerned workman was myth or pretext to coverup such undue delay.

21. It is the stand of the concerned workman that after proceeding on leave from 5.3.84 his wife expired and he became mentally unbalanced and he was under treatment for prolonged period and a certificate has been submitted to that effect whatever may be the qualification of the doctor. We should not forget that a registered doctor whether homeopath or aopath or possessing degree of abroad should be placed on the same footing for consideration in the Court of law subject to proper scrutiny. Before holding the certificate to be a bogus one it was the duty of the E.O. to call the doctor who issued the certificate for verification. Without doing so if it is simply considered to be a bogus one as this type of certificate was submitted earlier on the same ground then the said finding can never be called based on reasonings.

22. In this premises I cannot but say that generally the treatment of disease of this type is made by one doctor if relief is obtained in his treatment earlier and there is no hard and fast rule that a doctor is to be changed from time to time if it is not so needed. In this context we cannot ignore the human psychology even if he is a Homeopathic Physician firstly he approaches the said doctor and if it is required so he knocks the door of other doctor. We should not forget that for the common people just like the people of higher level there cannot be fashion by way of moving from one doctor to other doctor for verification or cross-verification etc. and thereby simply for the reason that certificate was issued by one doctor twice that can be rejected.

23. Be hat as it may I cannot but hold that as the information was admittedly sent by the concerned workman the absence though long it was nothing but over staying. Of course it should not be lightly dealt with as because nobody should be encouraged that he is at liberty to attend office at his sweat will and to remain absent at his whims and in that case the decorum and discipline of the office obviously would be hammered. At the same time if it is established that some reason there was and the management waited for such a long term of eight years without taking any information from the said concerned workman for his absence for such long period. Is it proper that as and when he came to report for joining duty it reminded the management and brought them to senses that action should be taken against the said workman? I fail to understand what debarred them to write a letter to the concerned workman earlier within these eight years why he is absent and why no action was taken departmentally for dismissal of his service for such long absence as it was rightly hammered by the workman.

22. In the light of the said observations I go back to the first point whether the concerned workman has a right to reopen the matter after admitting the enquiry to be fair and proper as well as lawful.

23. In reply to that point we may refer to the case law reported in 1989 Lab I.C. 1043 corresponding to AIR 1989 Supreme Court page 149 where Their Lordships have opined that simply for accepting or holding the disciplinary enquiry found to be fair and lawful and the same was not vitiated in any manner that by itself cannot a ground for interference with the order of termination of service by the Labour Court and a discretionary right has been given to the Labour Court in the light of the facts and circumstances revealed and the said Labour Court has also power of reinstatement under any terms and conditions just like giving an opportunity to reform and proving to be loyal and disciplined employee of the Company.

24. Therefore, in view of the facts a certificate has been produced by the concerned workman that he was mentally unbalanced for such long term for sudden demise of his wife which may be unnatural and in absence of any enquiry in this regard from the side of the management or for want of any cogent material to counter act of the same I am of the opinion that the views given by the Hon'ble Supreme Court fortifies me to hold otherwise inspite of holding the enquiry to be fair and legal one and this Tribunal is competent to give relief to the concerned workman if he is entitled to.

25. The next point which requires for consideration is that the absence for such long 8 years can be considered to be 'misconduct' as per rules of the Certified Standing Orders for workmen of Establishment under establishment of BCCL. Act of misconduct is stated in clause 26.0 and in connection of that clause 26.1.1 contemplates habitual late attendance or wilful or habitual absence from duty without sufficient cause constitute misconduct. I have carefully gone through clause 26 with other sub-clause but nowhere I find that absence without intimation is a misconduct nor it is embodied therein so specifically. May it be mentioned in this connection that there is no proof except this incident that he was habitually absenting and thereby I am to consider this aspect only considering the present absence involved in this case.

26. In this premises let me refer the case law reported in 1983 Lab IC 1909 (Supreme Court) in which their Lordship had opined that the act which has not been described as misconduct in the Standing Order itself the management is not entitled to award punishment because he believes it to be the misconduct ex-post facto. Their Lordship have held further that "some misconduct neither defined nor enumerated and which may be believed by the employer to be misconduct ex post fact would not expose the workman to a penalty". It cannot be allowed to the vagaries of the management to say ex-post facto that some acts of omission or commission nowhere found to be enumerated in the relevant Standing Order is nonetheless a misconduct not strictly falling within the enumerated misconduct in the relevant standing order but yet a misconduct for the purpose of imposing penalty.

27. Therefore, in view of such case law we cannot say that absence without information can be construed to be a misconduct as it is not stated specifically in the Standing Order.

28. In another case reported in Supreme Court Services Ruling Volume 2 (Rashiklal Vaghajbhai Patel-versus-Ahmedabad Municipal Corporation and another) Page 239 their Lordship have opined "it is thus well settled that unless either in the Certified Standing Orders or in service regulations an act or omission is prescribed as misconduct it is not open to the employer to fish out some conduct as misconduct and punishes the workman even though the alleged misconduct would not comprehend in any of the enumerated misconduct". Therefore this case law also does not support the present act of the concerned workman to be misconduct for such absence as per Certified Standing Orders as contended by the management.

29. Therefore in view of such decision I cannot but hold that the absence without intimation

can never be construed to be a 'misconduct' as enumerated in clause 26 of Certified Standing Orders and if that be so the punishment imposed for the dismissal of the incumbent as it is enumerated in the said certified Standing Order cannot stand nor it can be accepted that the punishment imposed thereon was proper.

30. In the case law reported in 1984 Lab I.C. page 554 (Supreme Court) it has been opined by their Lordship that the Tribunal has ample power to give proper relief keeping in view the proved misconduct of the concerned workman it would deem fit just for ends of justice.

31. Another point which has been canvassed by the learned Advocate Mr. D. Mukherjee representing the workman is that in a disciplinary proceeding if the authority higher than disciplinary authority imposed punishment and the same is done by the appellate authority the order of dismissal becomes illegal which has been enunciated in a judgement reported in 1955 ILLN 840 (Supreme Court). In the instant case to establish the said point my attention has been drawn to the Annexure A of the Certified Standing Orders where unit disciplinary authority, appellate authority of various units or department of BCCL are stated. In the Unit hospital Central under BCCL the disciplinary authority is the medical Supdt[Dy. M.S. and the appellate authority is the Area G.M.] C.M.O. Admittedly in the instant case the dismissal order lying in the enquiry file goes to show under No. BCCL/CMO/90/5887-91 dated 17/18-6-92 which is the order of dismissal is under the signature of Dr. A. K. Mukherjee who is nobody than the Chief Medical Officer, BCCL Koyala Bhawan. So it is clear enough that it was signed by the C.M.O. who is the appellate authority and thereby it violates the principles laid down referred to above as observed by the Hon'ble Supreme Court.

32. In that score also the order of dismissal is not legal one nor any action can be taken pursuant to such order.

33. Mr. H. Nath, appearing for the management submitted that a workman who did not attend in his work for more than 8 years. The said fact itself is sufficient enough to hold that he committed misconduct within the ambit of Certified Standing Orders applicable to the employees of M/s. BCCL. It was further added that this incident did not take place in case of this workman for the first time. It took place before hand and he relinquished the job and thereafter practically after showing mercy from the side of the management he was reinstated.

34. It was further submitted that if he was sick for such 8 years he has not been able to show that

actually he sent any information about the reasons of his absense or ailment which can be considered to be sufficient to wipe out his guilt for getting exoneration from the charge of misconduct.

35. I have given my anxious consideration upon such submission but already I have discussed and I have come to the conclusion that the onus lies upon the management to establish that the concerned workman committed misconduct by which he may be dismissed. But in the instant case no such iota of material has been brought by the management to collect the information about the place in a perfunctory manner even by not calling the doctor whose certificate was filed and that was rejected simply observing the same to be bogus one.

36. I have already given that that there may be thousands and one circumstances for not joining in service by the concerned workman and in that case there is also duty on the part of the management to collect the information about the reason of his non-reporting in the service. But in the instant case there is no iota of material that ever any step was taken by the management in case of such long absence of a workman who was a permanent employee as against the permanent vacancy. Accordingly it may be well considered that everybody sat tight and the matter remained un attended and the management woke up as and when the concerned workman came to join in his duty after giving proper or some explanation of his absence.

37. Therefore, considering the said aspect I am not inclined to accept the argument of Mr. Nath, learned Advocate for the management and the matter is disposed off in the tune as stated below.

38. Having regards to all the facts and circumstances and legal position enunciated therein I am of the opinion that I have no hesitation to hold that the action of the management in dismissing Shri H. N. Singh, the concerned workman from the service of the company is justified. He is entitled to get an order of reinstatement as relief. But I am not forgetful of the fact that to maintain decorum and discipline of the office a workman should not be encouraged that he is at liberty to remain absent as per his whim but under the peculiar circumstances and the non-action taken by the management for such long term and keeping in mind that after lapse of long 8 years the concerned workman approached the management to join, he cannot be entertained with the back wages for the idle period as because this Tribunal is not here to make a charity to the workman at the cost of the fund of the management.

39. Therefore, the back wages including any kind of financial benefits for the idle period is hereby refused. However, he is reinstated in his earlier post with the same scale and benefit with proper enhancement as per rules and revision of wages in the management of course without loosening his seniority with caution that the concerned workman should be alert in future and with further observation that the management should not be idle in case of such absence of long period without taking any action in case of such long absence. The management is directed to implement the Award within one month from the date of its publication in the official gazette.

This is my Award.

D.K. NAYAK, Presiding Officer.

नई दिल्ली, 14 सितम्बर, 1995.

का.आ. 2709.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाराष्ट्र स्टेट माइनिंग कॉर्पोरेशन के प्रबंधन के सदस्य नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय, सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-95 को प्राप्त हुआ था।

[संख्या एन-29011/33/90—आई आर/मिस]

वि.एम. डेविड डेस्क अधिकारी

New Delhi, the 14th September, 1995

S.O. 2709.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Maharashtra State Mining Corporation and their workmen, which has received by the Central Government on the 13-9-95.

[No. L-29011/33/90-IR(Misc)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT
JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(83)/1991

BETWEEN

Shri Balwant Ramji Chinchalkar & three others, represented through the Maharashtra State Mining Corporation employees Union (Branch Pateowari Mine) Plot No. 133, Abvanker Nagar, Nagpur (MS)-440010.

AND

The Chairman-cum-Managing Director, Maharashtra State Mining Corporation Ltd.
5, Abhyankar Nagar, Nagpur (MS)-440010.

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workmen : None.

For Management : Shri V. S. Verma.

INDUSTRY : Mining **DISTRICT :** Nagpur (MP).

AWARD

DATED : SEPTEMBER 6, 1995

This is a reference made by the Central Government, vide its Notification No. L-29011/33/90-IR-(Vividh) Dated 18/19-4-1991, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Maharashtra State Mining Corporation Ltd. Nagpur, by not regularising the services of Shri Balwant Ramji Chinchalkar, Shri Sitaram Gijuji Khumbalkar, Shri Madhav Kawduji Neware and Shri Tima Daguiji Menghre in the regular cadre of the corporation is justified? If not, so then what relief the workmen are entitled to?”

2. The case of the Union is that the workmen, Balwant Ramaji Chinchalkar and Tima Bhaguiji Menghre are being paid the salary of skilled workmen and the remaining two workmen viz. Sitaram Gijuji Kimbalkar and Madhav Kawaduji Neware are entitled for the wages of regular permanent that these four employees are working as a Clerks for the period of more than two years and they are entitled for the wages of regular permanent clerk. the case of the Union is that the Model Standing Orders framed under the Industrial Employment (Standing Orders) Act, 1947 are applicable to these workmen; that these four workmen should be treated at par with the rest of the similarly placed workmen; that the four workman are entitled for the regular scale of clerks i.e. 900—1500.

3. The case of the management is that the Model Standing Orders are not applicable to the workman and they cannot be treated at par with the rest of the workmen. Management has further alleged that these workmen do not have the required qualification for the post of clerk and they cannot be treated as permanent clerks. Management has further alleged that no vacancy is available with the management for appointing or absorbing these four employees as clerks.

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4. Statement of claim by the Union was filed on 27-5-91 and after 28-11-91 the workmen remain absent inspite of the repeated notices. The Union has not filed the rejoinder nor the documents.

5. Management on 18-5-95 prayed that the case be closed as the workmen are getting the required wages and they are not interested in pursuing the matter. From continuous absence of the workmen for more than three years inspite of repeated notices, it is evident that the workmen are not interested in pursuing the dispute. Consequently no dispute award is passed without any order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer.

नई दिल्ली, 14 सितम्बर, 1995

का.आ. 2710.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बम्बे डॉक लेबर बोर्ड के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, बम्बे के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-95 प्राप्त हुआ था।

[संख्या एल-31012/4/92-आई आर (विधि)]
बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 14th September, 1995

S.O. 2710.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No-2. Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bombay Dock Labour Board and their workmen, which has received by the Central Government on the 14-9-95.

[No. L-31012/4/92-IR(Misc)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2. BOMBAY

PRESENT :

Shri S. B. Panse Presiding Officer

Reference No. CGIT-2/53 of 1993

Employers in Relation to the Management of Bombay Dock Labour Board

AND

Their Workman

APPEARANCES :

For the Employers : M/s. Mulla & Mulla
and Craigie Blunt & Caroe Advocates.

For the Workman : M. B. Anchan Advocate.

Bombay, the 28th August, 1995

AWARD

The Government of India, Ministry of Labour by its letter No. L-31012/4/92-IR(Misc) dt. 14-6-1993 has referred to the following Industrial Disputes for adjudication.

"Whether the action of the Management of the Bombay Dock Labour Board, Bombay in retiring Sh. Shaikh Gafoor Shaikh Ahmed, Crane Driver prematurely w.e.f. 18-7-1990, when he was due to retire from services on 26-6-94 is just, proper and legal ? If not, to what relief is the workman entitled to ?"

2. Shaikh Gafoor Saikh Ahmed the workman was working as a Crane Driver of Stevedore Section of Bombay, Dock Labour Board. He joined the service in 1952, there was no complaint against him. He pleaded that on 18th of July, 1990 he was asked to sign a letter written in English. He was not informed about its contents too, He signed the said letter. But, he came to know that it was in respect of his medical certificate discharging him from services mentioning that he is medically unfit. It is submitted that his signature was taken on the said letter without examining him properly.

3. The worker got himself examined from the Municipal Hospital Doctors at Ghatkopar's Rajwadi Hospital. He was declared to be medically fit. He submitted that he had sent a Birth Date Certificate showing his age. Under such circumstances it is submitted that the action of the Management in discharging him from the services without any Departmental Inquiry is unwarranted. It is further contended that he was physically fit and as such should not have been removed from the services. He therefore, prayed for reinstatement with back-wages with other benefits.

4. The Management resisted the claim by Written Statement Ex. 3. It is averred that when the workman joined the services he disclosed his

age to be 28th January, 1952. It is pleaded that in the year 1983 the Board gave a proper publicity announcing its employees to make a representation with regard to any incorrectness in the Birth Date in the Boards record. It is averred that the applicant had not taken any step to change the Date of Birth from the Boards registers.

5. The Management contended that under Sec. 5B(2) of the Dock Workers (Regulation of Employment) Act, 1948. The worker who joined prior to August, 1972 were re-employed after superannuation if they find medically fit. The worker was given such appointment thrice when he was found medically fit, when he was found medically unfit it was informed to him and after obtaining his letter of medical examination he was discharged from the services. The worker also submitted his Identity Card with the Office. It is averred that prior to joining the Boards service the worker worked for 3-1/2 years with the Hyderabad Police which clearly indicates that the worker crossed superannuation age of 60 when he was discharged. I can be further seen that the Birth Date was not registered with the record of Jalna Municipality. It averred that under such circumstances the action which was taken against the worker is perfectly legal and proper. It is submitted that the reference may be answered in favour of the Management and the claim of the worker may be dismissed.

6. The issues that fall for my consideration and my findings hereon age as follows :

Issues	Findings
1. Whether it is proved that worker was retired prematurely ?	No
2. Whether it is proved that the worker was not medically checked before retirement ?	He was checked
3. Whether the action of the management of Bombay Dock Labour Board, Bombay in retiring Sh. Shaikh Gafoor Shaikh, Crane Driver prematurely w. e. f. 18-7-90 that he was due to retire from services on 2/6/92 is just, proper & legal?	The action is just proper and legal
4. If not to what relief is the worker entitled to?	Does not survive

REASONS

7. Shaikh Gafoor Saikh (Ex. 8) lead the oral evidence in support of his contentions. The Management had not lead any oral evidence. They relied on the documents and the records.

8. Shaikh Gafoor Shaikh admits to have joined the services of the Bombay Dock Labour Board in the year 1952 and filled the form for registration. He does not know who filled the form. He accepts that the contents of that form were furnished by him. The form is at Ex. 6/1 which clearly goes to show that when he joined the services he was 28 years of age. Before that he was serving for 3 years at Hyderabad in a Police Department. He affirmed that he joined the services of Hyderabad Police Department when he was 15 years of age. This appears to be incorrect statement. According to him he had not given birth certificate to get employment. He affirmed that he was born in 1934 to substantiate his contentions he had relied upon a certificate given by the Jalna Municipality. It is pertinent to note that at Ex. 6/4 there is a letter given by the Health Officer, Municipal Council, Jalna dt. 27-6-90 by which it was informed that the Birth Date of the worker is not registered in their Birth and Death Registers.

9. It is not in dispute that in the year 1982 the Board issued the circular directing the employees to correct the Birth Date in the register if it happens to be wrong. The worker is aware of the said circular but, he had not taken any step to make correction in the said Birth Date.

10. Leaving aside the aspect of the matter it is to be seen that as the worker joined the services prior to August, 1972 in view of the rules of the Board that he is found medically fit he is to be given extension every year. The worker admits that prior to the letter dt. 18-7-90 he had gone for medical check-up for 3 times i.e. for 3 years. He also admits that after other medical examination he was given an extension, Management did so in view of the rules.

11. Mr. Anchan the learned Advocate for the worker argued that the workman had affirmed that he was not medically checked before declaring him medically unfit and only his thumb impression was taken on the letter which is along with Ex. 6/5. He further submitted that as the Management has not examined the Doctor to that effect the contention of the worker has to be accepted. In normal course that would have been accepted too. In this particular case, there

is admission of the worker that prior to that alleged examination, he was examined by the Doctors of the Board. He was given extension. If this is so then there was no reason for the Board not to examine the worker and to declare him medically unfit. It is not the case of the worker that the Management has a bias mind against him or that he being an activist the Management wanted to remove him. As this is so it has to be accepted that the worker was medically checked and then found unfit.

12. The Management placed reliance on: Bombay Dock Labour Board V/s Babubhai. T. Hussain in writ petition number 2639 of 1990 (Ex. 12/A). Their Lordships have referred to category of cases like that of the present worker. The ratio given in that authority is exactly applicable to the present set of facts.

13. The evidence of the worker itself goes against him. Alongwith the Statement of Claim he produced the medical certificate given by Doctor from Bombay Municipal Corporation. It was produced with a view to bring all the record that he was medically fit when he was made to retire. But, the Doctor was not examined by the worker as his witness. Under such circumstances it has to be said that there is no fitness certificate on behalf of the worker. Not only that there is admission of the worker that prior to his retirement for earlier 3 years, he was medically checked. For all these reasons I find that the Managements action is just, legal and proper. In the result I record my findings on the issues accordingly and pass the following order.

ORDER

1. The action of the management to retire the worker is just, legal and proper.
2. No order as to cost.

S. B. PANSE, Presiding Officer

नई दिल्ली, 14 सितम्बर, 1995

का.आ. 2711.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्डिनेन्स फैक्ट्री के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 13-9-95 को प्राप्त हुआ था।

[संख्याएल-14011/17/91-आई.आर.(डी.)]

के. बी. डी. डमी, डैक अधिकारी

New Delhi, the 14th September, 1995

S.O. 2711.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Ordnance factory and their workmen, which was received by the Central Government on 13-9-95.

[No. L-14011|17|91|IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

CASE REF. NO. CGIT|LC(R)|(191)|1993

BETWEEN

Shri Dudnath Singh, President, O.F.K. Workers Union, Ordnance Factory, Khamaria, 48|7|Line 1, Khamaria, Jabalpur (MP)-482005.

AND

The General Manager, Ordnance Factory, Khamaria, Jabalpur (MP).

PRESIDED IN: By Shri Arvind Kumar Awasthy.

APPEARANCES:

For Workman : Shri Kamlesh Dutta, Advocate.

For Management : Shri B. Da'Silva, Advocate.

INDUSTRY : Ordnance Factory
DEISTRICT : Jabalpur (M.P.)

AWARD

Dated : August 17, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-14011|17|91-IR(DU) Dated 20-9-1993, for adjudication of the following industrial dispute :

SCHEDULE

“क्या प्रबन्धतंत्र आर्डनेंस फैक्ट्री, खामरिया, जबलपुर (मं० प्र०) के प्रबन्धकों द्वारा आर्डनेंस फैक्ट्री, खामरिया वर्क्स यूनियन के अध्यक्ष श्री दूधनाथसिंह को जांच कार्यवाही में प्राकृतिक न्याय सिद्धान्तों का उल्लंघन किये जाने की कार्यवाही उचित श्रम नीति है। यदि नहीं, तो संबंधित कर्मकार किस अनुसूच का हकदार है।”

2. Reference was received on 29-9-93. Thereafter parties were noticed to file their respective

statement of claim. Parties took several time to file the same. In the last four hearings neither the workman appeared nor filed his statement of claim. Consequently, it appears that he is not interested in pursuing the dispute. As such, no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 14 सितम्बर, 1995

का.प्रा. 2712.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार शनकैरिज फैक्ट्री के प्रबन्धतंत्र के सम्बद्ध विवादों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पक्षों को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-95 को प्राप्त हुआ था।

[संख्या एन.-14012/17/88-डी 2(बी)]

के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 14th September, 1995

S.O. 2712.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Gun Carriage Factory and their workmen, which was received by the Central Government on 13-9-1995.

[No. L-14012|17|88-D-2(B)]

K.V.B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

CASE REF. NO. CGIT|LC(R)|(124)|1989

BETWEEN

Shri Santosh Kumar Singh C/o Shri Anil Kumar Singh, 358|5, Parel Line, Type-II G.C.F. Estate, Jabalpur (MP)-482001.

AND

The General Manager, Gun Carriage Factory, Jabalpur (MP)-482001.

PRESIDED IN:

Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Sh. Paul, Advocate.

For Management : Shri B. Da'Silva, Advocate.

INDUSTRY : Gun Factory**DISTRICT :** Jabalpur (MP).**AWARD**

Dated : 5-9-1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-14012/17/88-D-2(B) dated 13-6-1989, for adjudication of the following industrial dispute :

THE SCHEDULE

“क्या गन करेज फैक्टरी जबलपुर (म० प्र०) के प्रबंधकों द्वारा श्री संतोष कुमार सिंह, एक फायरमैन-ग्रेड-2 गन करेज फैक्टरी, जबलपुर, को दिनांक 29-3-85 (अपराह्न) से नौकरों ने हटाए जाने की कार्यवाही न्यायोचित है? यदि नहीं, तो संबंधित कर्मकार किस अनुरोध का हकदार है?”

2. The admitted facts of the case are that the workman, Santosh Kumar Singh, was employed on the post of Fireman Grade II with effect 21-7-82 and the management vide its order dated 29-3-85 has terminated the services of the workman without giving any charge-sheet and without holding the departmental enquiry.

3. The case of the workman is that his termination from the service without giving any charge-sheet or holding departmental enquiry is in contravention of Article 311(2) of the Constitution of India and therefore illegal, the workman has also pleaded that he has worked for more than 240 days in a calendar year and his termination amounts to retrenchment and he is entitled for the reinstatement because the required notice and compensation was not paid as per Sec. 25F of the I.D. Act. The workman also alleged that his termination from the employment amounts to stigma and as such it is bad as the domestic enquiry was not held against him. The workman has prayed for the reinstatement with full back wages.

4. The case of the management is that the workman, Santosh Kumar Singh, was appointed on probation with effect from 21-7-82 and his period of probation for two years was mentioned to assess the suitability of the candidate and that the workman who frequently absented and his performance was poor and in spite of the letter issued to the workman, the workman has failed to improve

in performance; that the workman had no right to remain in service as according to the terms of probation he was not found suitable; that the termination of the workman from service is not retrenchment; that the termination of the workman was without stigma and as such departmental enquiry was not required.

5. Terms of the reference were made the issue in the case.

6. Workman, Santosh Kumar Singh, examined himself and Shri S.C. Prasad was examined on behalf of the management.

7. Management has filed documents Ex. M/1 to Ex. M/4 and from these documents it is clear that the workman, Santosh Kumar Singh was appointed on probation from 21-7-82 for a period of two years. The workman in his cross-examination admitted that his appointment was on probation. Consequently, from the statement of the management witness, Shri S. C. Prasad, and the admission of the workman and the documents filed by the management, it is clear that the workman, Santosh Kumar Singh, was appointed on probation for a period of two years. Ex. P1 is the order dated 29-3-85 passed by the management of the termination of service on probation of workman. There is nothing in the order dated 29-3-85 to show that the termination of service of probation was on account of any misconduct or stigma. From the statement of S.C. Prasad (M.W.1) and the monthly assessment report of the workman Ex. M/2 to Ex. M/5 it is clear that the workman was a regular absentee and his work was not found satisfactory.

8. On account of these remarks, it cannot be said that the termination of the workman was with stigma. In the case of Ravindra Nath Vs. State of U.P. AIR 1957 SC p. 2408 it is observed that in large democracy administration is bound to be impersonal and the assessment has got to be in writing and as such the remarks in the assessment report should not be construed generally as penal in character. Consequently, it is held that the termination of the probationer workman, S. K. Singh, was without stigma and not punitive in character and as such no domestic enquiry was required before terminating the services of the workman, S. K. Singh.

9. The termination of the workman, S. K. Singh, is not covered by the definition of retrenchment as according to the terms of contract the period of probation was only 2 years. The services of the workman was terminated after a period of two and a half years. The termination from service of the workman employed on contract is not covered by the definition of retrenchment. In case of P. S. Anitha Vs. Asst. Director of Tea Development Board Kotayyam (1995 Lab. I.C. 37) it

is held that the termination of the casual employee on the expiry of contract does not amount to retrenchment. In case of Director Institute of Management Development Vs. Pushpa Srivastava (AIR 1992 SC 2070) was held that the termination of service of the casual employee on the expiry of terms of contract does not amount to retrenchment.

10. However, in case of Madhyamik Siksha Pasishad, U.P. Vs. Anil Kumar Mishra & Ors. (1994-II-LLJ p. 977) it is held that the persons appointed on ad hoc post has no right for regularisation because such persons have no status under the Act on the basis of completion of 240 days service.

11. Consequently, the termination of the service of the workman, Shri Santosh Kumar Singh, as per terms of contract of probation does not provide him the benefit of Sec. 25F of the Act.

12. It is held in the case of Oil & Natural Gas Commission Vs. Dr. Mohd. S. Ali (AIR 1980 SC 1242) and State of U.P. Vs. Ram Chandra AIR 1977 SC 2547 that in case of a probationer of temporary employee, employee had no right of the post and his termination from service does not attract the provisions of Article 311(2) of the Constitution of India. It is further observed that the adverse remarks in the assessment report of the probationer are not generally construed to indicate that the termination of the probationer was punitive in character.

13. Consequently, it is held that the management was justified in removing Shri Santosh Kumar Singh, Probationer, from the service with effect from 29-3-1985. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 14 सितम्बर, 1995

का.प्र. 2713.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/9/95 को प्राप्त हुआ था।

[संख्या एल.-40012/10/87-डी-II (बी)]

के. बी. बी. उषी, डेस्क अधिकारी

New Delhi, the 14th September, 1995

S.O. 2713.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Telecommunication and their workmen, which was received by the Central Government on 13-9-95.

[No. L-40012/10/87-D.II(B)]

K. V. B. UNNY, Desk Officer

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (M.P.)

Case Ref. No. CGIT(R) (83)/1988

BETWEEN

Smt. A. C. Amin, represented through the Vice President, All India Telegraphs Engineering Employees Union Class III, C/o Trunk Exchange, Amravati (MS)-444602.

AND

The Divisional Engineer, Telegraphs, Amravati Division, Amravati (MS)-444601

PRESIDED IN:

Shri Arvind Kumar Awasthy.

APPEARANCES.

For Workman: Shri Sule.

For Management: Shri N. Petkar.

INDUSTRY: Telegraphs

DISTRICT:
Amravati (MS)

AWARD

New Delhi, the 14th September, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012/10/87D.II(B) Dated 22nd July, 1988, for adjudication of the following industrial dispute:—

SCHEDULE

“Whether the General Manager Telecommunication Maharashtra Circle, Bombay, in not promoting Smt. A.C. Amin, Telephone Supervisor, Amravati, as Supervisor w.e.f. 1-6-1974 is justified? If not, what relief the employee concerned is entitled to?”

2. The case of the Union is that Mrs. Asha C. Amin was recruited as Telephone Operator and posted under the management of Telecom Nagpur on 14-7-1956; that in the year 1976 a Departmental Promotional Committee was constituted and the workmen who were junior to Mrs. Amin were promoted; that later on 12-9-79 Mrs. Amin was promoted and this has resulted in downward placement of her name. The Union has prayed that Mrs. Amin be promoted as Supervisor with effect from 1-6-1974 and the arrears on account of difference of pay be paid to her.

3. The case of the management is that Mrs. Amin was not promoted on account of adverse entry in her confidential report; that the case of Mrs. Amin is not governed by the provisions of I.D. Act, but it covers under Sec. 2 of the Administrative Tribunal Act, 1985 and as such this Tribunal has no jurisdiction to try the case of Mrs. Amin.

4. Workman had sent the statement of claim by post and that the case was posted for filing the documents and framing of issues.

5. After 25-10-1988 the workman has never appeared in spite of repeated notices sent to her in last more than six years. Representative of the management made appearances on several hearings and thereafter none appeared either for the workman or the management. It is clear that the parties are not interested in pursuing the dispute. No Dispute Award is hereby passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 14 सितम्बर, 1995

का.आ. 2714.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेली ग्राफ के प्रवर्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/9/95 को प्राप्त हुआ था।

[संख्या एल.-40012/41/90-आई आर (डी य)]

के. वी. बी. उन्नी, ईस्क अधिकारी

New Delhi, the 14th September, 1995

S.O. 2714.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to

the management of Telegraph and their workmen, which was received by the Central Government on 13-9-95.

[No. L-40012/41/90-IR(DU)]

K. V. B. UNNY, Desk Officer

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(225)/1990

BETWEEN

Shri Suresh Singh Rajput S/o Sri Ram Prakash Rajput, Gram: Chhapara, Teh. Lakhanadaun, Distt. Seoni (MP)-480661.

AND

The Divisional Engineer, Telegraphs, Jabalpur Division, 16, Civic Centre, Jabalpur-482001, and The Sub-Divisional Officer, Telegraphs, Chhindwara Division, Chhindwara (MP)-480001.

PRESIDED IN: By Shri Arvind Kumar Awasthy.

APPEARANCES:

For Workman: None.

For Management: Shri S. K. Dabholkar.

INDUSTRY : Telegraphs DISTRICT : Jabalpur (M.P.)

AWARD

Dated: 4-9-1995

This is a reference made by the Central Government, Ministry of Labour vide its Notification No. L-40012/41/90-IR(DU) Dated 20/30-11-90, for adjudication of the following industrial dispute:—

SCHEDULE

“Whether the action of the management of Sub-Divisional Officer (Telegraphs) Chhindwara under the control of Telecom Distt. Engineer (Chhindwara) 16 Civic Centre, Jabalpur (MP) in stopping from work to Shri Suresh Singh Rajput S/o Ram Prakash Rajput worker w.e.f. 31-3-88 is justified and legal? If not, to what relief the workman is entitled to?”

2. Reference was received by the Tribunal on 6-12-1990 and notices were sent to the management and the workman for filing the statement of

claim; that inspite of the repeated notices sent to the parties, the statement of claim was not filed by the workman in last more than four years. However, representative of the management has appeared on more than 10 hearings. It is clear that the workman is not interested in pursuing the dispute. As such, no dispute award is passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 14 सितम्बर, 1995

का.आ. 2715.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जाइन्ट एग्रीकल्चरल मार्केटिंग एडवाइजर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/9/95 को प्राप्त हुआ था।

[संख्या एल-42012/136/87-डी-II (बी)]

के० वी० श्री० उन्नी, डेस्क अधिकारी

New Delhi, the 14th September, 1995

S.O. 2715.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Joint Agricultural Marketing Adviser and their workmen, which was received by the Central Government on 13-9-1995.

[No. L-42012/136/87-D.II(B)]

K. V. B. UNNY, Desk Officer
ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(72)/1989

BETWEEN

Shri Madan Chotelal Thape R/o Golibar Chowk in the House of Govindrao Choradkar, Nagpur (MS).

AND

The Jt. Agricultural Marketing Adviser, Dte. of Marketing and Inspection Branch, Head Office, New Sectt. Building, Nagpur (MS).

PRESIDED IN: By Shri Arvind Kumar Awasthy.

APPEARANCES:

For Workman: None.

For Management: Shri R. Menon, Advocate.

INDUSTRY : Marketing DISTRICT : Nagpur (MS).

AWARD

Dated, the 6th September, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-42012/136/87-D.II(B) Dated 16 March, 1989, for adjudication of the following industrial dispute:—

SCHEDULE

“Whether the action of Joint Agricultural Marketing Adviser Nagpur in terminating the services of Shri Madan Chotelal Thape w.e.f. 10-6-86 is justified? If not, what relief the workman concerned is entitled to?”

2. The case of the workman is that he was working as Helper with effect from 1-6-84 and he had completed more than 240 days service in a calendar year. but his services were terminated with effect from 10-1-1986 without paying the retrenchment compensation and the required notice. Workman has prayed that his termination is in violation of the provision of Sec. 5F of the ID Act and as such he is entitled for reinstatement with full back wages.

3. The case of the management is that the workman was appointed on day to day basis purely for temporary work and he has not completed 240 days service and as such there is no violation of the provisions of Sec. 25F of the I.D. Act.

4. Statement of claim was filed by the workman on 3-5-90 and thereafter the workman remained absent inspite of repeated notices.

5. Workman has led no evidence to prove that he has worked for more than 240 days. Management has prayed to close the case and pass a no dispute award as the workman is not turning up.

6. Workman has failed to prove that the termination of his service with effect from 10-1-1986 was unjust or improper. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 14 सितम्बर, 1995

AWARD

Dated : 4th September, 1995

का. प्रा. 2716.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार के प्रबंधन के संबद्ध नियोजकों और उनके कार्यदारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के संवपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-95 को प्राप्त हुआ था।

[संख्या एन-40012/70/89-आईआर (डी. यू.)]
के वी बी. उन्नी, डेस्क अधिकारी

New Delhi, the 14th September, 1995

S.O. 2716.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Telecom and their workmen, which was received by the Central Government on 12-9-1995.

[No. L-40012/70/89-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(19)/1990

BETWEEN

Shri Azad Ahmed C/o Shri Sayeed Zafar Alam,
House No. 14, Minori Road, In front of
Masjid Madrul Sahib, Bhopal (MP)-462001.

AND

The Telecom District Manager, Bhopal and Asstt.
Engineer, Electricals & Telex, Bhopal
(MP)-462001.

PRESIDED IN :

By Shri Arvind Kumar Awasthy

APPEARANCES :

For Workman : Shri Paul, Advocate.

For Management : Shri B. Da'Silva, Advocate.

INDUSTRY : Telecom DISTRICT : Bhopal (MP)

2336 GI/95—13

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012/70/89-IR(DU) dated 15-1-1990, for adjudication of the following industrial dispute :—

THE SCHEDULE

“Whether the termination of Sh. Azaz Ahmed, Casual Labour by the Asstt. Engineer, Electricals & Telex vide letter dated 1-8-87/31-7-87 is justified or not? If not, to what relief the workman is entitled for?”

2. The case of the workman is that he was employed from 1-7-1985 as a casual labour. He has continuously worked till 31-8-87; that thereafter the services of the workman were dispensed with by giving him one month's notice vide order dated 31-8-87; that after the termination of the service of the workman the management has given the employment to the workman, who were employed subsequently. The workman has prayed for reinstatement and back wages.

3. The case of the management is that the workman was employed as a casual labour as daily rated mazdoor for casual work; that the workman did not work continuously for more than 240 days in a calendar year; that the allegation that the management has employed subsequently retrenched workmen is baseless and the management has not violated the principle of last come first go.

4. Terms of reference were made the issue in the case.

5. It is an admitted fact that the workman was employed from 1-7-85 as a casual labour. The management has alleged that he was a daily rated employee for casual work.

6. The Hon'ble Supreme Court in case of Ravindra Kumar Mishra Vs. U.P. State Handloom Corporation Ltd. and another (AIR 1987 Sc. 2408) has held that employee in public sector undertaking on temporary basis, if terminated from the service in terms of service rules and the order of termination is innocuous without any stigma nor evil consequences visiting him then order is not open for challenge. It is further observed that the termination from the service of the employee of public sector undertaking terminated in terms of service rules is valid. It is further observed in para 6 of the judgment—

“In a large democracy as ours administration is bound to be impersonal and in regard to public officers whether in Government

or public Corporations, assessments have got to be in writing for purposes of record. We do not think there is any justification in the contention of the appellant that once such an assessment is recorded, the order of termination made soon thereafter must take the punitive character."

It is further observed in para 11 of the judgment—

"He was a temporary servant and had no right to the post. It has also not been denied that both under the contract of service as also the Service Rules governing him the employer had the right to terminate his services by giving him one month's notice, the order to which exception is taken is expressly an order of termination in innocuous terms and does not cast any stigma on the appellant nor does it visit him with any evil consequences. In the circumstances, the order is not open to challenge."

7. Consequently, the termination of the workman from the service is just and proper. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 14 सितम्बर, 1995

का.आ. 2717.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-95 को प्राप्त हुआ था।

[संख्या एल-41012/71/89-आईआरबी वीआई]

पी.जे. माईकिल, डेस्क अधिकारी

New Delhi, the 14th September, 1995

S.O. 2717.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway and their workmen, which was received by the Central Government on the 13-9-1995.

[No. L-41012/71/89-IRBI]

P. J. MICHALE, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING
OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
PANDU NAGAR KANPUR

Industrial Dispute No. 301 of 1989

In the matter of dispute between :

President,
Rashtriva Chaturtha Shreni Rail Mazdoor
Congress,
2-236 Namneir Agra.

AND

Divisional Railway Manager.
Central Railway.
Jhansi.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-41012/71/89-I.R.D.U. dated 22-11-89, has referred the following dispute for adjudication to this Tribunal—

Whether the Divisional Railway Manager Central Railway, Jhansi was justified in terminating the services of Balram Khalasi w.e.f. 19-10-83? If not what relief the workman was entitled to?

2. It is not disputed that the concerned workman Balram was working as Khalasi w.e.f. 2-3-83 in the Central Railway at Jhansi. During the course of discharge of his duty he sustained injuries in an accident as result of which his right hand has to be amputated. Because of this medical disability the railway dispensed with his services w.e.f. 19-10-83.

3. The case of the concerned workman is that since he had worked for more than 120 days he had acquired the status of temporary employee, as such if he was not medically fit to discharge the duties of khalasies he ought to have been provided with some other less onerous job like waiting room attendant, messenger etc. Outright termination of his services is not justified.

4. The railways have filed reply in which it has been denied that the concerned workman has acquired temporary status. Further as he had sustained medical incapacity his services were rightly dispensed with by the management.

5. The concerned workman has filed rejoinder in which the previous facts have been reiterated.

6. In support of his case, the concerned workman has filed his affidavit and he has also been cross examined. Further he has filed the medical

certificate and his request for being given the other suitable job. The railways have not filed any oral evidence.

7. It will first be seen if the concerned workman had acquired temporary status. There is copy of railway Board's Circular No. E(NG) I-97-CI/46 dated 8-6-91, in which it has been, inter alia, emphasised that if a casual worker works for more than 120 days without a break he should be conferred with the status of temporary employee. From the admitted facts it becomes clear that the concerned workman had worked w.e.f. 2-3-83 to 19-10-83 continuously. Further this fact has been proved by the unrebutted statement of the concerned workman as well. As from the above evidence it is fully proved that the concerned workman had worked for more than 120 days continuously. In view of above circular the concerned workman should be deemed to have acquired status of temporary employee. I hold accordingly.

8. There is certificate copy of medical report dt. 23-8-84 which shows that as a result of amputation of right wrist of the concerned workman he had suffered disability to the extent of 60 per cent. Keeping in view the nature of job of khalasi I think with the above mentioned percentage medical incapacity, the concerned workman could not do his main job as it required from a normal person. In view of this his services were rightly dispensed with.

9. Any how since the concerned workman has acquired temporary status I am further of the view that the concerned workman ought to have been provided with other suitable job.

10. Hence my answer to the first part of the reference is in favour of the management and against the concerned workman. However, my further award is that the concerned workman should be provided by the Railway with some other suitable job looking into consideration his physical disability.

11. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 1995

का.अ. 2718—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, सेंट्रल उमर हाउसिंग कारपोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली, के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-95 को प्राप्त हुआ था।

[सं. एल-42011/8/92-आई आर (मिस.)]

बी.एम. डेविड, डैस्क अधिकारी

New Delhi, the 14th September, 1995

S.O. 2718.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Warehousing Corporation and their workmen, which has received by the Central Government on the 13-9-95.

[No. L-42011/8/91-IR (Misc.)]

B. M. DAVID, Desk Officer.
ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESID-
ING OFFICER : CENTRAL GOVT. INDUS-
TRIAL TRIBUNAL : NEW DELHI

I.D. No. 7/94

In the matter of dispute between :

Shri Ekpai Singh S/o Shri Ajab Singh
through Shri Abdul Aziz
Vice President
CWC Employees' Union, Lucknow Unit,
Central Warehouse, Janta Road
Saharanpur-247001.

Versus

The Regional Manager,
Central Warehousing Corporation
126/14 B.M. Road, Lal Bagh
Lucknow-226001.

APPEARANCES : Ekpai Singh in person.

Shri J. P. Yadav for the Management.

AWARD :

The Central Government in the Ministry of Labour vide its Order No. L-42011/8/92-IR (Misc) dated 12-1-94 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the Management of Central Warehousing Corporation, in not regularising the services of Shri Ekpai Singh daily rated watchman w.e.f. 20-6-1989 on completion of two years service, in accordance with the terms of appointment order, is legal and justified, If not, to what relief the workman is entitled to?"

2. The case was fixed for 12th September, 95 for filing of documents by the parties when an application was put in jointly by the parties for taking up the case today as the matter has been

settled between the parties. The parties have stated that the matter has since been settled between the parties, and the services of the workman has been regularised by order dated 8-8-95 and no dispute exist between the parties.

3. In view of this statement of the parties the matter stands settled. No dispute award is given in this case. Parties are left to bear their own costs.

5th September, 1995

GANPATI SHARMA, Presiding Officer.

नई दिल्ली, 14 सितम्बर, 1995

का.आ. 2719—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक धिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-95 को प्राप्त हुआ था।

[संख्या एन-12012/293/91-आईआरबी]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 14th September, 1995

S.O. 2719.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of SBI and their workmen, which was received by the Central Government on the 14-9-1995.

[No. L-12012/293/91-IR(B-I)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

CASE REF. NO. CGIT/LC(R)(5)/1992

BETWEEN

Shri Kunjilal Bisen, represented through the General Secretary, State Bank of India and Subsidiary Banks Employees Union, 2, Vijay Nagar, Chhaoni, Nagpur (MS)-440013.

AND

The Deputy General Manager, State Bank of India, Kingsway, Nagpur (MS)-440 001.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : None.

For Management : Shri Sachdeva.

INDUSTRY : Banking DISTRICT : Nagpur (MS).

AWARD

Dated : September 16, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/293/91-IR. B. III dated 29-1-1992, for adjudication of the following industrial dispute:—

SCHEDULE

"Whether the action of the management of State Bank of India in terminating the services of Shri Kanjilal Bisen, Sub-staff is legal and justified? If not, to what relief he is entitled to?"

2. The case of the Union is that Shri Kunjilal Bisen was appointed on 2-5-1984 in subordinate cadre in the State Bank of India, Gangajheri Branch, District Bhandara (MS) and he continuously worked for 362 days during the period 1-5-84 to 30-4-1985 and his services were illegally terminated with effect from 28-4-1985 in violation of the provisions of Sec. 25F of the I.D. Act. Workman has prayed for reinstatement with back wages.

3. Management has denied that the workman has continuously worked for 362 days. Management has alleged that the termination of the workman is not covered by the definition of retrenchment under the I.D. Act and as such there is no case of the violation of the provisions of Sec. 25-F of the I.D. Act. The management has further alleged that in view of the settlement between the union and the management the claim of the workman is not tenable.

4. Union filed the statement of claim on 17-2-1992 and thereafter neither the Union nor the workman appeared in spite of the repeated notices for their appearance.

5. Management has ultimately alleged that in view of the settlement between the Union and the Management no dispute award be passed. Management no dispute award be passed. Management has filed the settlement dated 17-11-1987.

6. In view of the continuous absence of the workman inspite of the repeated notices, it is clear that the workman is not interested in pursuing the dispute.

7. Consequently, no dispute is hereby passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 15 सितम्बर, 1995

का.प्र. 2720—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में भारत कोकिंग कोल लि. का बास्ताकोला क्षेत्र के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-95 को प्राप्त हुआ था।

[सं. एल-20012/353/90-आई आर (काल-1)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 15th September, 1995

S.O. 2720.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Bastacolla Area of M/s. BCCL and their workmen, which was received by the Central Government on 12-9-95.

[No. L-20012/353/90-IR(Coal-I)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri D.K. Nayak,
Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 90 of 1991

PARTIES :

Employers in relation to the management of Bastacolla Area of M/s. B.C.C.L. and their workman.

APPEARANCES :

On behalf of the workmen : Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, Dhanbad, the 29th August, 1995

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(353)/90-I.R.(Coal-I), dated, the 11th April, 1991.

SCHEDULE

"Whether the action of the management of Dobari Colliery under Bastacolla Area of M/s. BCCL by confirming period of suspension as punishment to Shri Idrish Khan Fan Operator, vide their letter No. D/9/88-3818 dt. 29-10-88 is justified ? If not, what relief the workman is entitled ?"

2. In this case both the parties did not file their respective W.S. Subsequently when the case was fixed for filing W.S. both the parties appeared before me and filed a compromise petition under their signature. I heard both the parties on the said petition of compromise and I find that the terms contained therein are fair, proper and legal one. Accordingly I accept the said petition of compromise and pass an Award in terms thereof which forms part of the Award as Annexure.

D. K. NAYAK, Presiding Officer

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL NO. 2 AT DHANBAD

Reference No. 90/1991

Employers in relation to the management of Dobari Colliery of Bastacolla Area of M/s. BCCL.

AND

Their workman.

COMPROMISE PETITION

The humble petition on behalf of the parties to the above reference most respectfully sheweth :

1. That the Central Government by Notification No. L-20012(353)90-IR(Coal-I) dated 11-4-1991

has been pleased to refer the present case to the Hon'ble Tribunal for adjudication on the issue contained in the Schedule of reference which is reproduced below—

SCHEDULE

"Whether action of the management of Dobari Colliery under Bastacola Area if M/s. BCCL by confirming period of suspension as punishment to Shri Idris Khan, Fan Operator, vide letter No. D/9/88-3818 dated 29-10-1988 is justified? If not, what relief the workman is entitled?"

2. That the concerned workman was issued a chargesheet dated 12-10-1988 and was kept under suspension from 13-10-1988 during the pendency of the departmental enquiry. The suspension of the concerned workman from 13-10-1988 till 29-10-1988 was confirmed by letter dated 29-10-1988 after the receipt of the enquiry report dated 23-10-1988.

3. That the dispute was amicably settled between the parties to the reference on the following terms—

TERMS OF REFERENCE

- (a) That the concerned workman, Shri Idris Khan, Fan Operator, will be paid wages for the days of suspension in excess of 10 days period. The suspension from 13-10-1988 till 29-10-1988 exceeded 10 days and therefore he will be paid wages for the period in excess of 10 days.
- (b) That the period of suspension for 10 days will be deemed to have been confirmed and he will not get wages for the period of 10 days.

4. That in view of the aforesaid settlement there remains nothing to be adjudicated. Under the facts and circumstances stated above, the Hon'ble Tribunal will be graciously pleased to accept the settlement as fair and proper and be pleased to pass the Award in terms of the settlement.

For the Workmen

1. Idris Khan

For the Employers

1.

2. Names are illegible.

नई दिल्ली, 15 सितम्बर, 1995

का.आ. 2721 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी.एल. की खास कुमुण्डा कोलियरी की खास कुमुण्डा कैंटीन के प्रबन्धतंत्र के संवद्ध नियोजकों

आर उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2) धनबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 12-9-95 को प्राप्त हुआ था।

[संख्या-एल-20012/299/86-डी-3(प.)]

क.वी.बी. उनी, डेस्क अधिकारी

New Delhi, the 15th September, 1995

S.O. 2721.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2) Dhanbad as shown in the Annexure in the Annexure in the Industrial Dispute between the employers in relation to the management of Khas Kusunda Canteen of Khas-Kusunda Colliery of M/s. B.C.C. Ltd. and their workmen, which was received by the Central Government on 12-9-95.

[No. L-20012/299/86.D.3(A)]

K. V. B. UNNY, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

Shri D. K. Nayak, Presiding Officer.

In the matter of an Industrial dispute under Section 10(1)(d) of the I. D. Act., 1947

REFERENCE NO. 104 OF 1987

PARTIES :

Employers in relation to the management of Khas Kusunda Canteen of Khas Kusunda Colliery of M/s. Bharat Coking Coal Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri T. K. Das Advocate

On behalf of the employers.—Shri S. N. Sinha, Advocate and Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated. Dhanbad, the 28th August, 1995

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(299)86.D.III(A) dated, the March, 1987.

THE SCHEDULE

"Whether the demand of United Coal Workers Union that the management of Khas Kusunda Colliery of M/s. Bharat Coking Coal Limited should departmentalise and give wages and other benefits as per National Coal Wage Agreement III to the 6 workman, whose names are given in the annexure below, reported to be working at the Canteen of Khas Kusunda Colliery is justified? If so, to what relief are these workmen entitled?"

ANNEXURE

1. Shri Kedar Singh, S/o. Kishan Singh.
2. Shri Jiwan Kumar Sinha, S/o. L. B. Sinha.
3. Shri Rambilash Singh, S/o. R. N. Singh.
4. Shri Kumar Sateyandra Singh, S/o. Ram Prakash Singh.
5. Shri Ganesh Bishwakarma S/o. Kesho Vishwakarma.
6. Shri Prabhat Kumar Singh S/o. R. N. Singh."

2. In reply to the reference as stated above my predecessor in office passed an Award after giving following reasonings holding that the demand of the United Coal Workers Union that the management of Khas Kusunda Colliery of M/s. Bharat Coking Coal Ltd. should departmentalise and give wages and other benefits as per NCWAs to Shri Kedar Singh, Ganesh Vishwakarma and Prabhat Kumar Singh is justified but the demand of Shri Jiwan Kumar Sinha, Ram Bilash Singh and Kr. Sateyendra Singh is not justified and thereby a direction was given to the management for departmentalisation of the said workmen in the concerned canteen of Khas Kusunda Colliery and to pay wages under NCWA with effect from March, 1987.

3. So on scrutiny of the said Award and the reasonings as stated in the Award itself I find that a portion of the claim of the union and existence of the canteen and the order of regularisation of three of the said workmen were accepted by my predecessor in office but three other workmen were not given any relief as claimed.

4. Being aggrieved by the said Award the aggrieved union filed a Writ Petition under Articles 226 and 227 of the Constitution of India challenging the Award passed by my Predecessor-in-office Shri I. N. Sinha on 10-1-91 upon various grounds. In the said judgement His Lordship Hon'ble Mr. Justice R. N. Sahay of Ranchi Bench of Patna High Court in Civil Writ Jurisdiction case No. 2533 of 1990 (R) pointed that this Tribunal on the basis of the W.S. filed by both the parties framed three issues such as (1) whether the concerned workmen are running

the canteen of Khas Kusunda Colliery, (2) whether the Canteen being run by the concerned workman is the departmental Canteen of Khas Kusunda Colliery and (3) whether the concerned workmen should be departmentalised and regularised as the workmen of the said Canteen. It has also been pointed out in the judgement of the Hon'ble High Court that the Tribunal will decide issue No. 3 i.e. whether the concerned workmen should be departmentalised and regularised as the workmen of the said canteen discussed the evidence whether all the 6 concerned persons were actually working in the said canteen and after considering and assessing the evidence it was accepted by the Presiding Officer of the Tribunal No. 2, Dhanbad that three workmen namely Kedar Singh, Ganesh Vishwakarma and Prabhat Kumar Singh were the workers of the Canteen concerned and their claim for regularisation was accepted and was ordered but in respect of three other concerned workmen the said claim was refused.

5. From the judgment of the Hon'ble High Court by which this present case has been sent on remand with a direction to make a fresh decision in accordance with law as the Hon'ble High Court could not concur that the Tribunal in its decision rejecting the claim of three other concerned workmen within the compass of same set of evidence and circumstances and the facts revealed in the instant reference.

From the judgement of the Hon'ble Court it appears that the main argument was advanced from the side of the aggrieved workmen that the Tribunal went beyond the reference as it was not open to the Tribunal to decide whether the aggrieved workmen were actually working in the canteen or not. On the other hand it was argued that the reference itself is clear that all the six workmen were the workers of the Canteen and the only question which is required to be decided by the Tribunal was as to whether the claim of these workmen for regularisation was justified. It is added further that the said judgement discloses that it was submitted from the side of the aggrieved workmen that the management did not dispute that all the 6 workmen were engaged with the canteen and in this context the evidence of Kedar Singh one of the concerned workman and Ram Naresh Singh witness for the management were referred to.

7. After considering their evidence that all the workmen were working in the said canteen and they were appointed by the then Manager of the Colliery concerned. The canteen was provided with Coal, Water Electric etc. free of cost and also considering the fact that the management allowed to run a tea shop in the said canteen and there were Cook and Canteen boy for working under Kedar Singh all should have been accepted as employees of the said colliery which is admittedly run by the Khas Kusunda Colliery.

8. It is also referred that from the roll of the staff that it would appear that 1600 workmen were in the said colliery and it was impossible rather to run a canteen and to meet their demand only by the three persons which remain open from 8.00 A.M. to

8 P.M. In this Writ Petition one affidavit was also filed from the side of the management. However, nothing material points were urged from the side of the management is the Hon'ble High Court and thereby Hon'ble Judge of the High Court of Ranchi Bench could not concur with the decision of the judgement of the Tribunal No. 2 in the matter of refusal of three workmen for regularisation as it was decided in respect of other three workmen.

9. At the present moment I have no other alternative than to go beyond the indications given by the Hon'ble Judge in the judgement of the Writ application copy of which has been sent to me for the purpose of holding the guidelines for further decision on remand.

10. At the very outset again I carefully go through the reference made by the Ministry and the issue framed by my Predecessor-in-office and the evidence and materials on record. After considering all these points I cannot but say that there is ample material which is accepted practically upto Hon'ble High Court including my Predecessor-in-office that there was canteen in Khas Kusunda Colliery and that was run by the same persons and in course of evidence the names of all these six persons have appeared to be the workers of the said canteen. It has also been accepted as well as it has transpired in evidence that a canteen was run by the Khas Kusunda Colliery at the relevant time. Therefore, the only question which invites my decision is whether all these six persons were the employees of the said Canteen. In view of the reference made it is for the management to establish who were the actually workers of the said canteen as it was run by the management in whichever manner it may be but from the side of the management there is no such cogent material to counter act the claim. Only we are to base upon the oral evidence of one of the witness of the workman concerned and one witness for the management. There is no doubt that the evidence of the concerned workmen clearly goes to support the claim of the workers. Now let me see what is the evidence of the management. One Ram Nares Pd. Singh who worked in Khas Kusunda Colliery as Personnel Officer during the period 1977 to March, 1982 had deposed. He also became Sr. Personnel Officer thereafter. According to him there was a canteen building in the said colliery during the time of private management. He has deposed that he knew Shri Kedar Singh and he found his relatives working in Khas Kusunda Colliery and the said Kedar Singh approached the management to start a Tea Shop in the Canteen building of the said colliery and the management allowed him to run so therein and he saw Cook and Canteen boy used to work along with Kedar Singh in the said Tea Shop. He has admitted that according to Mines Act each colliery is required to run a canteen but his evidence is not clear who actually used to work therein.

11. Ext. W-1 shows that Kedar Singh was running the canteen in the said colliery since September, 1977 and there is no material on record that the same was ever discontinued and the said Ext. also

shows that the Canteen was run effectively and efficiently and no complaint for the said canteen was received by the management. Moreover, Mines Act & Mines Rules and the provision contained in NCWA-III is clear that the management is to run a canteen in the colliery as pointed earlier. So this evidence is clear enough that there was a canteen under the management and that was run by Kedar Singh and others. From the materials on record it appears that Ganesh Viswakarma was the Canteen Cook and Prabhat Kumar Singh was the Canteen Boy. In the meantime a new story has appeared in the supplementary affidavit that is the W.S. filed by the Supdt. of Mines it has been stated that five persons namely Kedar Singh, Jiwan Kumar Sinha, Ram Bilas Singh, Kumar Satyendra Singh and Prabhat Kumar Singh all are partners and they took contract for running the canteen at Khas Kusunda Colliery and other two were canteen boy and Canteen cook.

12. So the W.S. as referred to above clearly indicates the involvement and engagement of all these concerned workmen in the said canteen existed in the colliery since 1977.

13. If that fact be accepted I think that all should be considered to be the employees of the canteen and they should be given employment.

14. In this premises I cannot ignore the petition filed by the management on 30th day of March, 1995 wherein it is stated that pursuant to the award passed by this Hon'ble Tribunal in Ref. No. 104/87 i.e. the present reference though that award has already been set aside by the judgement of the Hon'ble Patna High Court Ranchi Bench in Writ Petition as referred to above three workmen were employed by making the canteen departmentalised on assessment by the export committee one as Manager of the Canteen, one as Cook and one as Canteen Boy.

15. Taking into consideration of such fact and in view of the decision of the Hon'ble Supreme Court it is not desirable that the management should be asked to give appointment of a person where there is no vacancy.

16. It is needless to say that there is nothing on record that before the concerned canteen departmentalised as such but when that has been so run and expert committee given appointment of three of the concerned workmen in the post as stated above, the Tribunal will not interfere in such experts opinion but considering the fact that other three concerned workmen were also working in the canteen which was in existence from long past they should be regularised atleast in the minimum Cat. I with prospect of promotion as it is provided in the law and to place them either in different canteen or in any place of the management of BCCL as it is suitable to them.

17. So the reference is disposed off in the following terms. The three concerned workmen who have already been regularised in the said Canteen of Khas

Kusunda Colliery which has been started functioning departmentally one as Manager of the Canteen, one as Cook and one as Canteen boy, they will continue in their working as departmentalised by the management and the other three concerned workmen namely Sri Jiwan Kumar Sinha, Shri Ram Bilash Singh and Shri Kumar Satyendra Singh should be regularised atleast in the minimum Category, I post with effect from the date Shri Kedar Singh, Shri Ganesh Viswakarma and Shri Prabhat Kumar Singh were regularised with payment of back wages of the Cat. I having their posting in the concerned canteen or elsewhere as it is convenient of the management. This Award should be implemented by the management within one month from the date of its publication.

This is my Award.

D. K. NAYAK, Presiding Officer.

नई दिल्ली, 15 सितम्बर, 1995

क.आ. 2722 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकांश, 2 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-95 को प्राप्त हुआ था।

[संख्या एल-12012/289/90/आईआरबी-2]

पी. जे. माइकल, डेस्क अधिकारी

New Delhi, the 15th September, 1995

S.O. 2722.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, 2 Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bank of India and their workmen, which was received by the Central Government on 14-9-95.

[No. L-12012/289/90-IR(B-II)]

P. J. MICHAEL, Desk Officer

2336 GI/95—14

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL

GOVERNMENT OF GOA AT PANAJI

BEFORE SHRI AJIT J. AGNI, HON'BLE PRESIDING OFFICER

Ref. No. IT/24/93

Mrs. Padma A. Chowgule
C/o General Secretary,
Bank of Maharashtra Karmachari Sangh
BMS, 487-B, Rajaram Road
Kholapur (M.S.)

.. Workman/Party I

V/s

The Chief Manager (Staff and Admn.)
Bank of Maharashtra
Lok Mangal 1501, Shivnagar
Pune 411005.

... Employer/Party II

Workman represented by Shri S.V. Bhate.

Employer/Party II represented by Shri M.V. Chikodi.

PANAJI, dated 17th June, 1995

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the I.D. Act, 1947 (14 of 1947), the Central Government referred the following dispute for adjudication by this Tribunal, by order dated 5-3-93 bearing No. 12012/410/92-IR (B-II).

"Whether the action of the Chief Manager (Staff and Admn Bank of Maharashtra 'Lok Mangal', 1501, Shivaji Nagar, Pune and the Regional Manager, Bank of Maharashtra, Zonal Office Satara Region, Kolhapur (M.S.) is justified in postponement of annual increment of Mrs. Padma A. Chowgule, Clerk at Umbraj Branch of Bank of Maharashtra Distt. Satara (M.S.) by 29 (Twenty-nine) days spent by her on Extra Ordinary Leave from 11.11.89 to 9.12.89 which was duly granted on the basis of Medical Certificates produced by her to the Bank. If not, to what relief Mrs Chowgule is entitled to?"

2. On receipt of the reference, a case was registered under No. IT/24/93 and registered A/D notice was issued to the parties. In pursuance to the said notice, the parties put in their appearance. The Party I (For short "Union") was represented by Shri S. V. Bhate and the Party II (For short "Employer") was represented by Shri M. V. Chikodi. The Union filed the statement of claim which is at Ext. 3. The Union contended that Mrs. Padma Chowgule was working as a clerk with the Employer at Umbraj branch, Distt. Satara. She was sanctioned leave due to her pregnancy and delivery for the period from 10.7.89 to 10-11-89 towards maternity, privilege and sick leave. She was also sanctioned extraordinary leave from 11-11-89 to 9-12-89 for 29 days on the ground of illness. As per the B. P. Settlement clause No. 13.36, the sanctioning authority may direct that the period of extraordinary leave to counted for increment if it is satisfied that the leave was taken on account of illness or for any other cause beyond the employer's control. The Union contended that Mrs. Padma A. Chowgule applied for extra-ordinary leave because the leave balance to her credit was exhausted and she required leave because of her sickness. The Union further contended that Mrs. Padma Chowgule applied for extraordinary leave also because of the reasons beyond her control and hence she had fulfilled the conditions of clause 13.36 of B. P. Settlement. The contention of the Union is that the employer, however, postponed annual increment of Mrs. Padma Chowgule by 29 days being the days spent by her on extraordinary leave from 11-11-89 to 9-12-89. The Union, therefore, contended that the action of the employer in postponing annual increment of Mrs. Padma A. Chowgule is illegal and unjustified.

3. The employer filed the written statement which is at Exb. 4. The employer contended that the annual increment of Mrs. Padma Chowgule was postponed by 29 days as she availed of the extraordinary leave on loss of pay, as per the then existing policy of the employer. That, however, since the employers of the majority Union requested the employer to reconsider its policy, the employer considered the request of the employees and formulated a policy whereby it was decided not to postpone the increment for extraordinary leave if the leave is availed of on medical grounds, and sanctioned by the management. The employer further contended that instructions were issued to the branch Manager/Regional Manager, Satara Region to pre-ponne the annual increment of Mrs. Padma Chowgule.

4. Thereafter, issues were framed at Exb. 5 and case was fixed for the evidence of the Union. Since, inspite of the opportunities given, no evidence was led by the Union, the evidence

of the Union was closed on 4-7-95 and the case was fixed for the evidence of the employer, if any, on 7-8-95. However, on the said date, Shri S. V. Bhate, representing the Union and Shri M.V. Chikodi, representing the employer appeared and filed an application at Exb. 6 stating that the claim of Mrs. Padma Chowgule was fully settled and hence, there was no claim surviving. The parties prayed that the case be closed.

5. The reference of the dispute was made by the Central Govt. at the instance of the Union since it challenged the action of the employer in postponing annual increment of Mrs. Padma Chowgule, the clerk at Umbraj branch of the employer, by 29 days spent by her on extraordinary leave from 11-11-89 to 9-12-89 which was duly sanctioned. During proceedings of the case, the Union and the employer filed the application at Exb. 6 stating that the claim of Mrs. Padma Chowgule is fully settled and the claim no more survives. Since the Union who had espoused the dispute of Mrs. Padma Chowgule, itself has admitted that her claim is fully settled, nothing is left to be decided and hence, the reference does not survive.

In the circumstances, I pass the following order:

ORDER

It is hereby held that the reference does not survive in view of the settlement of the claim of Mrs. Padma Chowgule, Clerk at Umbraj Branch of Bank of Maharashtra, Distt. Satara (M.S.) by the Chief Manager (Staff and Admn.) Bank of Maharashtra "Lok Mangal", 1501, Shivaji Nagar, Pune and the Regional Manager, Bank of Maharashtra, Zonal Office, Satara Region, Kolhapur (M.S.).

There shall be no order as to costs.

Inform the Central Government accordingly.

AJIT J. AGNI, Presiding Officer.

नई दिल्ली, 15 सितम्बर, 1995

का.आ. 2723.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, औद्योगिक अधिकरण, गोवा के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-10-95 को प्राप्त हुआ था।

[संख्या एल-12012/410/92/आई.आर.बी.-2]

पी.जे. माहकल, डेस्क अधिकारी

New Delhi, the 15th September, 1995

S.O. 2723.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Goa as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 14-9-95.

[No. L-12012/410/92-IR(B-II)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II, BOMBAY

PRESENT :

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/1 OF 1991

Employers in relation to the management of
Bank of India

AND

Their Workmen.

APPEARANCES :

For the Employers : (1) Shri S. K. Talsania,

(2) Shri V. H. Kantharia,
Advocates.

For the Workmen : In Person.

Bombay, the 18th August, 1995

AWARD : PART-I

The Government of India, Ministry of Labour by its letter No. L-12012/289/90-I.R. (B-II) dated 26-12-90 has referred to the following industrial dispute for adjudication :

“Whether the action of the employer of Bank of India in terminating the services of Shri K. V. Joshi, Cash Clerk of the Bank, w.c.f. 12-9-89 is justified, If not, to what relief the concerned workman is entitled?”

2. The workman, K. V. Joshi initially filed his Statement of Claim on 6-3-91. Later on General Secretary for the Bank of India Staff Union filed additional Statement of Claim which is at Ex. W/3.

3. It is contended that the workman has joined Bank of India as a clerk on 5-10-1966. He worked at different branches of the Bank at the material time. He was working as a Cash Clerk in the Cash Department in Bombay (Main) Branch.

4. On 29-9-1987 and on 30-9-1987 the workman was asked to man the cash payment counter No. 7A. As per the practice of the payment counter, he has

maintained records of Cash. There was no complaint of whatsoever nature for the submission of accounts by workman for those days.

5. On 30-9-1987 in the evening the Custodian of the cash Mr. P. B. Nakhva who received the cash from all cashiers could not balance tally cash, so received/paid by him throughout the day and he was short of Rs. 30,000 (Rupees Thirty Thousand only) and could not account for the cash shortage.

6. It so happened that the matter was reported to the press. The Bank did not lodge the complaint. The workman was thoroughly interrogated by one Mr. A. Pugalenty, the Investigating Officer on 12-10-1987 and 13-10-1987. The Investigating Officer involved the workman in the alleged shortage by alleging that the workman had misappropriated the amount by threatening to hand over the workman to police. On the report of the Investigating Officer, the workman was suspended on 24-10-1987, and subsequently was chargesheeted on 10-2-1988, the charges were :

1. Intentionally fabricating and manipulating Bank's records; and

2. Misappropriating Bank's cash amounting to Rs. 30,000 (Rupees Thirty Thousand only).

7. The workman contended that the domestic enquiry which was held against him was against the principles of natural justice. He was chargesheeted on the basis of the false charge. It is averred that he was not paid subsistence allowance as per the provisions of the Bipartite Settlement after completion of one year, at the rate of full salary as subsistence allowance during suspension period. It is contended that he was not given the copies of the documents.

8. The workman asserted that Mr. Nakhva, the first witness of the Bank who was present in the enquiry was under examination. It is pleaded that even though enquiry officer first directed the Presenting Officer to examine all the witnesses mentioned in the witness list, but later on he did not stick up to his order. He pleaded that even though the witnesses of management were not allowed to cross examine on some questions which were reserved for putting them to the Custodian. But the Custodian was not produced as a witness. It is submitted that the workman was not allowed to establish the procedure so he could not bring all the records of the procedural lapses. It is averred that the documents required for cross examination were not made available to worker. In the result prejudice was caused to him. It is pleaded that the workman's Cross examination was restricted unnecessarily. It is averred that the question relating to unreliability of carbon impression memos were not allowed to be put. It is pleaded that the witnesses were allowed to be withdrawn before completion of the cross examination. The workman pleaded to tell that he was not allowed to cross examine Mr. Bhatt as his witness.

9. It is submitted on behalf of the workman that the enquiry officer was biased and his findings were perverse and with no reasons. He was not allowed to

that the question relating unreliability of carbon impression memos were not allowed to be put. It is pleaded that the witnesses were allowed to be withdrawn before completion of the cross examination. The workman pleaded to tell that he was not allowed to cross examine Mr. Bhatt as his witness.

9. It is submitted on behalf of the workman that the enquiry officer was biased and his findings were perverse and with no reasons. He was not allowed to cite rulings in support of his contention. The appellate authority did not consider the case of the workman in its proper perspective. For all these reason it is submitted that the domestic enquiry which was held against the workman is not just and proper. The report of the enquiry officer is based on wrong conclusions. It is, therefore, the action of the Management is said to be illegal and the workman may be reinstated in service with continuity of service and back wages.

10. The management resisted the claim of the workmen by their Written Statement at Ex. 4 and Ex. 5. It is alleged that the contention taken by the workmen and Union are incorrect. It is averred that the enquiry which was held against the workmen was as per the principles of natural justice and no prejudice is caused to him. The management denied contentions taken by the workmen and the Union in respect of domestic enquiry. The management asserted that the action which was taken against the workmen was just and proper. It is averred that when there is misappropriation in banking institution several aspect are required to be taken into consideration which are taken in the present matter. In the result the punishment awarded is just and proper. Under the circumstances, it is submitted that the reference may be answered in favour of the management.

11. My Learned Predecessor framed issues at Ex. 6. He also ordered that issues number 1, 2 & 3 are to be tried as preliminary issues. The issues and my findings there on are as follows.

ISSUES	FINDINGS
(1) Whether the inquiry held against the workman was not held properly and the Rules of natural justice were not followed ?	Yes
(2) Whether the Inquiry Officer had a bias attitude against the workman ?	Yes
(3) Whether the findings of the Inquiry Officer are perverse ?	Does not survive

REASONS

12. Before going to the reasons certain facts in this reference has to be mentioned. Initially the Union opposed for the appointment of Advocate on behalf of the management. That contention was rejected. It can be further seen that later on the workman's advocate after taking some cross examination of the management witness, withdrew his Vakalatnama. The workman completed the cross examination of the management witness personally after filing petition to that effect.

13. It is not in dispute that clause 19.1 and 19.13 of the bi-parite settlement deals with departmental inquiry when the departmental inquiry is to be held

against the workman a procedure laid down in these clauses should be followed. There are different heads under these clauses which are to be followed at the time of the departmental inquiry. The first and the foremost stage is that the charge-sheet which is issued to the delinquent i.e. workman should clearly state the circumstances appearing against him. The workman has nowhere disputed, that there is an ambiguity in the charge-sheet. After going to the said charge-sheet it can also be seen that it is clear in terms.

14. It is thereafter the delinquent is to be informed the date of the inquiry and the time is to be given to prepare his expansion. Here in this case, this is also followed. At the time of the inquiry the delinquent is to be given an opportunity to be represented through representative of the Union. Here in this case the delinquent is represented by the office bearer of the Union who is well-versed in the departmental inquiry. Looking to the documents produced on the record it is very clear that defence representatives availed the opportunity to defend the delinquent.

15. After these un-disputed effects it is to be seen whether the other requirements in the domestic inquiry are observed by the inquiry officer in the inquiry which was held against the workman. It is rightly argued by Mr. Kantharia the learned Advocate for the Management that the burden of proving the departmental inquiry which was held is against the principles of natural justice is on the worker. This proposition is to be accepted.

16. The workmen in his written argument has taken other contentions to substantiate his contents with the domestic inquiry which was held against him was against the principles of natural justice. The management had dealt with on all grounds which are submitted by the workman. Now I would like to refer to them one by one.

17. It is argued on behalf of the workman that he was suspended on 24-10-87 and was charge-sheeted on 10-2-88. The charge-sheet was received by the workman on 20-2-88, he submitted that it is against the principles of natural justice. This cannot be accepted. It is well settled that the workman can be suspended on pending inquiry. From the record it appears that when the shortage of Rs. 30,000 came to the light on 30-9-87 then investigation started. After recording statements of different witnesses and that of delinquent the Management came to the conclusion that workman is a culprit.

18. The workman had contended that he was not given the statement of all witnesses, the copy of the inquiry report and the statement of Mr. Nakhva, in fact, the investigating officers report is the basis of departmental inquiry. It was not made available to the worker at the time of cross-examination of the Management witnesses. He demanded the investigating officers report. It was not given to him. It has to be said that it caused prejudice to him.

19. The workman has also asked for the production of Original Till Memos date 29-9-87 and 30-9-87. So far as the production of Original Till Memos of dated 29-9-87 are concerned it is established that after the tallying of the cash on that date later on they are destroyed. The cash dated 29-9-87 was tallied. It is, therefore, those memos were destroyed. But,

so far as the till memos dated 30-9-87 are concerned they are produced on record. The submission of the workman is that the carbon copies memos are not admitted, hence the evidence on its basis has to be rejected has no merit at all. One has to say that it is a secondary evidence. It is permissible when the original is no more.

20. It is tried to argue that the Management did not examine the witness serially which caused prejudice to the workman for its preparations for cross-examination of every witness. I am not inclined to accept that the workman was prejudiced by not examining the witnesses serially. Further more what is required is to give the list of witness which are to be examined and not the serial numbers, which are to be examined. Under such circumstances, the contention of the workman that prejudice is caused because of it, has no merit.

21. It is tried to argue that Mr. Nakhva who was the witness of the Management was not examined even though he was sited as Management witness no. 1. In fact, the management could not be compelled to examine the particular witness. It is their choice. If the workman thought that his evidence would have helped him he would have called Mr. Nakhva as his witness. It cannot be said that his non-examination is against the principles of natural justice. I may mention it here that looking to the facts of this case, to bring on the record all the relevant facts it would have been better on the part of the Management to examine him. I repeat that his non-examination cannot be the ground for coming to the conclusions that domestic inquiry, which was held against the workman was against the principles of natural justice.

22. I have already said above as Original Till Memos dt. 29-9-87 were not available, the entries made in the Till book of the custodian are to be proved on the basis of the carbon copies of Till Memos dt. 29-9-87. The inquiry officer allowed the management witness no. 2 Neelkanth Joshi to that effect is not in-correct. It is not in dispute that the Inquiry Officer restricted cross-examination of D. W. 2 to the transactions dated 29th and 30th September, 1987. There is a lengthy cross-examination of this witness. The restrictions which was put by the Inquiry Officer can be said to be within his rights, I do not find that he has crossed the limit for coming to the conclusion that those restrictions are against the principles of natural justice.

23. Neelkanth Joshi (D. W. 2) in his examination in brief had referred to rough balance book. It was the right of the defence to put questions pertaining to rough balance book after its production and bringing the defects in to the said witness. It was not made available to the worker. The book and the rough balance paper were subsequently produced on the record. In the written argument of the management in paragraph 15 it is not mentioned that these documents were produced before the cross-examination of D. W. 2 and made available to the workman. I, therefore, find that it is against the principles of natural justice.

24. The Inquiry Officer allowed re-examination of D. W. 2 and D. W. 3. As a natural consequence he should have allowed the workman to cross-examine these witnesses on re-examination, but, he was not allowed to cross-examine the witness on re-examination. The Inquiry Officer rejected the prayer of the workman. It is tried to argue on behalf of the management that no new points were brought on record. It is therefore the cross-examination was rejected. In fact, the re-examination is allowed means something new or ambiguity which had come in the deposition of the particular witness is tried to clarify. Naturally, the defence had every right to cross-examine after re-examination. If there was nothing to be brought on record by re-examination the Inquiry Officer should not have recorded the same. As he had done so, the workman had right to re-examine which was rejected resulting into prejudice to him. It violated the principles of natural justice. Mr. Kantharia placing reliance on K. L. Tripathi Vs. State Bank of India and others AIR 1984, Supreme Court 273. It is observed that in a quasi judicial adjudication neither cross-examination nor a opportunity to lead evidence is an integral part. After referring to the facts of that case, it can be seen that a question no cross-examination has not arisen there, the facts were admitted there. In this case the workman vehemently from the beginning denied most of the facts alleged by the management. The facts in that case are quite different from the facts before me. The ratio in the said authority has no application. By not allowing the workman to cross-examine these two witnesses after their re-examination has prejudiced him. The action of Inquiry Officer has to be said against the principles of natural justice.

25. The Management Witness No. 3 Mohan Wagh is an expert witness. He is an examiner of documents. Admittedly the Inquiry Officer directed the workman to restrict cross-examination of this witness pertaining to questionnaire prepared by the Investigating Officer. There is no dispute over this. This restriction is definitely against the principles of natural justice. There are certain allegations on the workman on the basis of carbon copies Till Memos, which are alleged to be prepared by him with some alterations in the same. The witness being an expert witness it was really necessary to bring on the record from the testimony what the workman wanted to do. The fact that his cross-examination is restricted to the questionnaire prepared by the Investigating Officer itself goes to show that the expert is not allowed to ask anything excluding that questionnaire. It is difficult to accept that, in that case what is necessary to be brought in defence of the delinquent could have been brought on the record. It is rightly argued on behalf of the workman that it caused prejudice to him, that resulted in to un-fair Departmental Inquiry. It can be further seen that the Inquiry Officer did not allow the workman to bring to the notice of the expert the originals and the carbon copies of the Till Memos to establish his case. In other words it has to be said that the evidence so far as the expert is concerned is one sided no opportunity was given to the workman for real cross-examination of the witness.

26. It is tried to argue on behalf of the workman that the Inquiry Officer restricted the cross-examination of the Investigating Officer and he had not given sufficient adjournment for preparation for the cross-examination of witnesses. I do not find any merit in this submissions. The record of the Departmental Inquiry particularly the cross-examination conducted by the defence representative of the management witnesses clearly goes to show that he was given sufficient time. It can be further seen that the Inquiry Officer had got power to restrict the cross-examination which is beyond the scope of the inquiry. The contentions of the workman that he was restricted in cross-examination of the Investigating Officer has no merit.

27. The workman argued that his witness No. 1 was not allowed to re-examine. The Inquiry Officer had given reasons for the same. Re-examination as permitted when there is an ambiguity. It is not that again the fresh evidence is to be allowed to be laid by way of re-examination. The action of the Inquiry Officer in this regard is justified so is the case of defence witness No. 2. The Inquiry Officer rightly rejected the prayer of the workman, to examine Mr. Bhatt as a witness. He had given reasons for the same.

28. It is tried to argue on behalf of the workman that the written brief which was given by the Presenting Officer was not supplied to him, that caused prejudice to him. The Inquiry Officer affirmed that he had not relied upon the written brief which was submitted by the Presenting Officer while preparing the report. That is not challenged by the workman. As this is so I am not inclined to accept that it has caused prejudice to the workman.

29. It is tried to argue on behalf of the workman that he was not paid subsistence allowance during the pendency of his suspension. Admittedly he had to file an application under Section 33-C (2) on the Industrial Disputes Act in the Labour Court for getting his dues. He could get his dues after the order was passed by the Labour Court. The workman, to substantiate his contentions placed reliance on *Bharat Petroleum Corporation Limited V/s. Jagdish Tiwari* 1995 (2) Bom. C.R. 438. The facts of the case are quite different. What is observed by their Lordships is that due to the non payment of subsistence allowance, if the worker is not in a position to defend himself, then in that case the domestic inquiry has to be said to be against the principles of natural justice and void. As against that Mr. Kantharia the learned Advocate for the management placed reliance on: *S. B. Aigaoonkar V/s. State Bank of India* 1994 II C.L.R. 797. That was the case where their Lordships have observed, when the delinquent was prevented from preparing of defence, for non payment of subsistence allowance then the proceeds can be said to be void. If he is defended then that cannot be a ground. Here also in this case the workman had taken almost all evidences and fought the departmental inquiry by tooth and nail. It is argued on behalf of the Management that

some allowance was paid to the workman. There was real dispute regarding the sum which was to be paid. For the above said reasons I find that the submission of the worker that the Departmental Inquiry is void due to the non-payment of subsistence allowance is not acceptable.

30. There are some other contentions raised by the workman that the report of the Investigating Officer is not produced on the record which caused prejudice to him is without any merit. In fact, what he wanted to bring on record was that even-though alleged deficiency was found on 30-10-87, the report was made on 5-10-87. There after the Inquiry Officer was appointed. But that does not effect the merit of the Departmental Inquiry. He had also tried to suggest that he was not allowed to put question to bring on the record what is the procedure for internal exchange of notes and the procedure for handling cash to the cashier by the Cashier-in-charge. I do not find that had effected the domestic inquiry. But, again looking to the facts of the case it would have been better on the part of the Management to bring on the record details of the procedure of handling cash which is followed in that banks branches and in other branches for coming to the exact conclusions.

31. So far as the other compliances contemplated in clause 19.12 and 19.13 of the bipartite settlement are concerned the workman had not disputed it. For all these reasons I find that the Inquiry held against the worker was not held properly and to rules of natural justice were not followed. It is argued on behalf of the workman that the Inquiry Officer has a bias mind against him. He initially directed the Presenting Officer not to delete any of the witnesses from the witness list, but he later on over ruled his own judgement because of the bias attitude towards the worker. This cannot be said to be bias attitude. It appears that he over ruled his order for the reasons given.

32. The word bias means a leaning of the mind, inclination that which sways the mind towards one opinion rather than another. Here as the enquiry Officer did not allow for further cross-examination after the re-examination of the witnesses speaks that he is bias towards the management. It can be further seen that he being a Inquiry Officer he should not have restricted cross-examination of the expert to the questionnaire of the Investing Officer. This also leads to think that the mind of the Inquiry Officer was towards one opinion rather than the other.

33. It appears that the workman placed reliance on some authorities to show that he had unflattered right of cross-examining the witnesses. These authorities were shown when the Cross-examination of expert was restricted by the Inquiry Officer. Initially the Inquiry Officer argued to consider those authorities and the case was adjourned. But, on the adjourned date he pointed that this being a departmental inquiry it was not necessary to study the case law. That shows that he had a bias mind towards the Management. If he would have gone through those authorities he would not have restricted the cross-examination of the expert which the workman wanted to do. It is rightly argued on behalf of the workman that it shows bias mind of the Inquiry Officer.

34. It is tried to argue that the findings of the Inquiry Officer are perverse. In fact, as I have come to the conclusions that the Departmental Inquiry is against the principles of natural justice. The management has to be given an opportunity to lead evidence to substantiate its action which is taken against the workman. As this is so this issue does not survive.

35. Even if it is said that this issue survives the answer has to be given that the findings are in-correct. It is so because the whole evidence which is on record is in-adequate for coming to the right conclusion. In the result I pass the following order :

ORDER

1. The Inquiry held against the workman was not held properly and the rules of natural justice were not followed.
2. The Inquiry Officer had the bias attitude against the workman.
3. The issue whether the findings of the Inquiry Officer are perverse does not survive.
4. The Management is allowed to lead evidence to substantiate their action against the worker.

S. B. PANSE, Presiding Officer

नई दिल्ली, 15 सितम्बर, 1995

का.ग्रा. 2724 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी. सी.एल. की कारगली कोलियरी (बी गंड के) के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-95 को प्राप्त हुआ था।

[संख्या-एल-24012/54/85-डी. 4(बी)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 15th September, 1995

S.O. 2724.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kargali Colliery BPK of Central Coalfiles Ltd. and their workmen, which was received by the Central Government on 12-9-1995

[No. L-24012/54/85.D.IV(B)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT
DHANBAD

PRESENT :

Shri D. K. Nayak, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act., 1947.

Reference No. 321 of 1987

PARTIES :

Employers in relation to the management of Kargali Colliery (B & K) of Central Coalfield Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 29th August, 1995

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(54)|85-D.IV(B) dt. the 13th August, 1987.

SCHEDULE

"Whether the action of the management of Kargali Colliery (B & K) of M/s. Central Coalfields Ltd., P.O. Bermo, Distt. Giridih in not granting one increment to Sri P.D. Sharma, Overman as provided under 'Common Coal Cadre', is legal and justified? If not, to what relief the workman concerned is entitled?"

2. In this reference the workmen neither appeared nor took any steps. But the management's authorised representative all along made his appearance. It also appears from the record of this case that on several occasions notice was issued to the workmen but inspite of the issuance of the notice the workmen neither turned up nor filed W.S. It therefore leads to an inference that the workmen are not interested to pursue their claim before this Tribunal. In the circumstances, a 'No dispute' Award is passed.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 15 सितम्बर, 1995

order dated 8-12-1994 bearing No. L-40012/150/93 IRDU referred the following dispute for adjudication by this Tribunal.

का.प्र. 2725.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेल्कोम डिस्ट्रिक्ट के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गोवा के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-95 को प्राप्त हुआ था।

[संख्या एल-40012/150/93-आई आर (डी यू)]
के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 15th September, 1995

S.O. 2725.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Goa as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Telecom District and their workmen, which was received by the Central Government on 14-9-1995.

[No. L-40012/150/93-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT OF GOA AT PANAJI

BEFORE SHRI AJIT J. AGNI, HON'BLE PRESIDING OFFICER

Ref. No. IT/18/95

Shri Pandurang A. Naik,

Margao—Goa. ... Workman/Party I
V/s

The Telecom District Manager,

The Sub Divisional Officer,

Phones, Margao-Goa ... Employer/Party II
Party I-Workman absent.

Party II-Employer represented by Adv. Y. M. Bodharkar/Adv. S. Joshi.

Panaji, the 28th July, 1995

AWARD

In exercise of the powers conferred by clause (d) of Sub-Section (1) and Sub-2A of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Central Government by its

"Whether the action of the Department of Telecom District Manager, Panjim-Goa and Sub Divisional Officer, Phones, Margao (Goa) in stopping from services to Shri Pandurang Apu Naik, Ex-Mazdoor w.e.f. 1-1-1986 is proper and justified? If not, to what relief the workman is entitled to?"

2. On receipt of the reference a case was registered under No. IT/114/94 and registered A.D. notices were issued to the parties requiring them to attend the hearing fixed on 20-2-95. On the said date Adv. Bodhankar appeared on behalf of Party II (For short, 'Employer'). However, the registered A.D. notice issued to the Party I (For short, 'Workmen') was returned unserved with postal remarks, "Not claimed-returned to sender". Therefore, another registered A.D. notice was sent to the workman on 20-3-95 requiring him to attend the hearing fixed on 17-4-95. However, neither the notice nor the A.D. card was received back and therefore it could not be known whether the workman was served with the notice or not. Therefore one more registered A.D. notice was issued to the workman on 4-7-95 requiring him to attend the hearing fixed on 20-7-95. However, this notice was also returned unserved with postal endorsement, "Not claimed-returned to sender". It is therefore deemed that the workman was duly served with notice of hearing. The workman remained absent on 20-7-95 and consequently no statement of claim was filed on his behalf. Adv. Bodhankar representing the Employer submitted that the Employer did not wish to file the statement of claim/written statement and prayed that award be passed holding the action of the Employer in stopping the services of the workman as legal and justified.

3. The reference of the dispute has been made by the Central Government at the instance of the workman since he challenged the action of the Employer in stopping his services with effect from 1-1-1986 and as such he raised an industrial dispute. The Bombay High Court, Panaji bench in the case of V.N.S. Engg., Services v/s Industrial Tribunal, Goa Daman and Diu and another reported in FJR Vol. 71 at page 393 has held that there is nothing in the Industrial Disputes Act, 1947 that indicates a departure from the general rule that he who approaches a Court for a relief should prove his case i.e. the obligation to lead evidence of establish an allegation, the test being that he who does not lead evidence must fail. Their Lordships of the Bombay High Court further held

that the provisions of Rule 10-B of the Industrial Disputes (Central Rules 1957) which requires the party raising a dispute to file a statement of demands relating only to the issue in the order of reference for adjudication within 15 days from the receipt of the order of reference and forward copies to the Opposite party involved, clearly indicates that the party who raises the industrial dispute is bound to prove the contention raised by him and an Industrial Tribunal or Labour Court would be erring in placing the burden of proof on the other party to the dispute. In another case, i.e. in the case of V.K. Raj Industries v/s Labour Court (I) and Others reported in 1981 (29) FLR 194, the Allahabad High Court has held that the proceedings before the Industrial Court are judicial in nature even though the Indian Evidence Act is not applicable to the proceedings before the Industrial Court, but the principles underlying the said Act are applicable. The High Court has further held that it is well settled that if a party challenges the validity of an order, and if no evidence is produced the Party invoking the jurisdiction must fail. The High Court has also held that if the workman fails to appear or to file written statement or produce evidence, the dispute referred by the Government cannot be answered in favour of the workman and he will not be entitled to any relief. I am entirely in agreement with the said decision of the Allahabad High Court.

4. In the present case since the dispute was at raised by the workman and it is at his instance the reference was made by the Government the burden was on the workman to prove that the action of the Employer in terminating his services w.e.f., 1-11-86 was not proper and justified. However, the workman inspite of having been given several opportunities to appear in the matter and file his statement of claim did not do so. The Regd. A.D. notices sent to the workman were returned unserved with postal endorsement "Not claimed—returned to sender". This clearly shows that the workman was not interested in proceeding with the matter. Therefore there is no material before me to hold that the action of the Employer in terminating the services of the workman was not justified and proper. In the absence of any evidence it cannot be held that the action of the Employer in terminating the services of the workman is illegal.

In the circumstances, I hold that the workman has failed to prove that the action of the Employer in stopping his services w.e.f., 1-11-1986 is not justified and proper and hence I pass the following order.

ORDER

It is hereby held that the action of the Department of Telecom District Manager, Panjim-Goa, and Sub Divisional Officer Phones, Margao-Goa, 2336 GI/95—15.

in stopping the services of the workman Shri Pandurang Apu Naik, Ex-mazdoor with effect from 1-11-86 is justified and proper.

No order as to costs.

Inform the Central Government accordingly.

AJIT J. AGNI, Presiding Officer

नई दिल्ली, 18 सितम्बर, 1995

का.आ. 2726.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फेडरल बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में लेबर कोर्ट अरनाकुलम के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 18 सितम्बर, 95 को प्राप्त हुआ था।

[संख्या एल-12012/144/92-आरबीआई]

के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 18th September, 1995

S.O. 2726.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Labour Court, Ernakulam as shown in the Annexure in the industrial dispute between the employers in relation to the management of Federal Bank Ltd. and their workmen, which was received by the Central Government on the 18.9.95.

[No. L-12012/144/92-IRBI]

K. V. B. UNNY, Desk Officer.

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

Monday, the 31st day of July, 1995

Present:

Shri Varghese T. Abraham, B.A. LL.M.,
Presiding Officer.

Industrial Dispute No. 13 of 1992(C).

Between

The Chairman, M/s. Federal Bank Ltd.,
Head Office, Alwaye—683101
(Kerala).

AND

The General Secretary, Federal Bank Employees Union P.B. No. 10, Alwaye—683101.

Representations:—

Shri B. S. Krishnan, Advocate, Ernakulam.
.....For Management

Sri M. Ramachandran, Advocate, Kochi-17.
....For Union.

AWARD

The Central Government as per order No. L-12012/144/92-IR. B. III dated 12.8.1992 referred the following issue for adjudication—

“Whether the action of the management of M/s. Federal Bank Ltd. in dismissing Shri P. Vijayaraghavan, Clerk of Beyoor branch of the bank w.e.f. 5-8-1991 is justified? If not, to what relief the said workman is entitled to?”

2. A few facts : Sri P. Vijayaraghavan, the delinquent, who is dismissed from service was employed as a clerk of Nadakkavu Branch. He was in officiating capacity while one of the officers was on leave. He pledged gold ornaments of his wife, Geetha on 4.7.87 and 2.11.87 under gold loan Nos. 6970 and 7560 and availed of Rs. 12,000 and Rs. 6,600 respectively. During this period of service in that bank he is alleged to have committed the following misconduct, namely (i) fraud, (ii) forgery and (iii) doing act prejudicial to the interest of the bank. The details of the charges are as here under:—

“Pledging gold ornaments at Br. Nadakkavu West in the name of Smt. K. V. Geetha, your wife, forging her signature and also for giving a letter to the branch Manager, purported to have been signed by Smt. K. V. Geetha.

(ii) Removing gold ornaments pledged as security against G. L. Nos. 6970 and 7560 from the joint custody without permission and knowledge of other joint custodians, while you were acting as one of the joint custodians of Br. Nadakkavu West.”

3. The delinquent submitted an explanation which was found unsatisfactory. Hence an enquiry was held by Sri N. James Augustine, Enquiry Officer. He is the officer, P.I.R. Department of Federal Bank Ltd., Head Office, Aluva. He conducted a detailed enquiry. The workman was given sufficient opportunity to defend his case and cross examine the management's witnesses. The Enquiry Officer examined as MWs 1 to 3 and marked Exts. M1 to M15.

4. After detailed discussion of the evidence adduced before him the enquiry officer found the delinquent guilty. The disciplinary authority imposed the maximum punishment of dismissal and

the appeal preferred by the delinquent before the appellate authority was without success. On the other hand the appellate authority found that the charges proved against him in the enquiry and the misconduct committed by the appellant are so grave and there is no mitigating circumstance to take a lenient view and reduce the punishment. This order of dismissal is under challenge by way of reference to this court.

5. The delinquent workman filed a detailed claim statement submitting that he was active participant of the union that he had played a vital role in organising the strike during 1987-88 and so the punishment is imposed upon him in retaliation. According to the union Smt. Geetha pledged the ornaments in her personal capacity and he did not forge signature of his wife. He was transferred from the Nadakkavu branch with effect from 8-1-88 and so it was impossible for a person to open the locker. The domestic enquiry is violative of the principle of natural justice. The enquiry officer placed reliance on the evidence of MW3, who was the custodian of the ornament and found the delinquent guilty. The depositions of the management's witnesses are contradictory to each other. When he was transferred from the Nadakkavu branch with effect from 8-1-88, Smt. Elezabeth Varghese who was transferred to that branch, ought to have verified the pledged items and such a course was not followed by her. One person alone cannot open and operate the locker, without the physical involvement of the other joint custodian. The date of missing of the gold ornament is not stated in the chargesheet. Missing of ornaments was not recorded in the registers kept in the bank. He was informed about the missing only on 10-11-88.

6. The management filed a detailed defence submitting that while the delinquent was working at Nadakkavu Branch, he pledged gold ornaments with the bank in the name of his wife Geetha, forging her signature and also for giving letter to the branch Manager, purported to have been signed by Geetha and for removing pledged gold items. His explanation was found unsatisfactory and hence the domestic enquiry was held strictly in accordance with the principles of natural justice. The workman cross examined the witness for the management and defended him in the enquiry. He was given sufficient opportunity. The enquiry officer found the workman guilty of removing the gold ornaments relating to the loan in question from the bank while he was holding joint custody of the pledged ornaments, before imposing the punishment the workman was given a personal hearing and he availed the same. The disciplinary authority imposed the punishment of

dismissal. Appeal was also dismissed. There is not ground to attract the domestic enquiry. He committed the misconduct while he was in joint custody of the pledged gold ornaments. Agricultural loan was availed by the brother in law and co-brother of the workman. The proceeds of the loan were intended and utilised for closing the gold loan account of Geetha. The delinquent had access to the gold ornaments. He stealthily removed the gold ornaments. The bank deals with public money. Public confidence will be lost if employees of this nature are retained in service. So it is prayed for dismissal of the claim.

7. Ext. M1 file is marked. Heard both sides.

8. Points which emerge for consideration are:

- (i) Whether the domestic enquiry held against the workman was valid, proper and legal?
- (ii) Whether the punishment imposed on the workman is liable to be interfered with and if so, to what extent?"

9. Point No. 1: The learned counsel for the union has fairly conceded that there is no challenge against the procedure followed the domestic enquiry. On going through the entire Ext. M1 file, I am fully convinced that the enquiry was held strictly in accordance with the principles of natural justice. Violations of any norms of procedure are not discernible. Therefore, I hold that the enquiry is not vitiated either by violation of principles of natural justice, fair play and other accepted canons of the law of procedure for disciplinary action. Point so found against the workman.

10. Point No. 2: It is a case where the workman is alleged to have committed acts prejudicial to the interest of the bank. The challenge is made by the learned counsel for the union only against the findings reached by the enquiry officer. It is settled law that the Labour Court or Industrial Tribunal does not sit in appeal over the decision taken by the enquiry officer, unless there is manifest error or patent defect on record. The Labour Court is not expected to re-analyse the evidence or re-evaluate the evidence recorded by the enquiry office. Responsible persons of the bank are examined by the management and they are the best person to say as to whether the workman has committed the alleged misconduct in dealing with the bank's money or property. Ext. ME(1) in Ext. M1 file will show that the internal inspection of the Nadakkavu Branch was held on 4.11.88 and 5.11.88. The inspecting staff found missing of gold ornaments with respect to those pledged by the wife of the delinquent. It is stated in ME

(1) that the responsible office of the bank along with the inspecting staff visited the house of the delinquent on 5.11.88 evening and sought clarification from him. The delinquent admitted before them that he had taken the ornaments from the joint custody during the period from 4.1.88 to 6.1.88. It has also been brought out in evidence that the delinquent had opportunity to officiate himself when other officers were on leave. Sri Vijayaraghavan, the delinquent, was issued a letter dated 17-12-88 from the inspection department calling upon him to furnish his explanation. The letter was served to him on 29-12-88. But he sent a letter on 13-1-89 requesting to grant 15 days time which was granted to him. But the explanation was submitted on 13.2.89 as per his letter dated 6-2-89. It has been stated in the inspection report [ML(1)] that if the delinquent had not committed anything as alleged in the letter dated 17-12-88, he could have denied the allegations immediately, but he took 46 days to do so which itself creates suspicion in the conduct of the workman. Ext. ME14 is letter dated 7-11-88 sent by Geetha the wife of delinquent stating as follows:

"I am sending required money to close the above mentioned gold loans. Please accept the same and close the account. On the reverse of Ext. ME(14) it is stated that she received the gold ornaments."

But in MEs 11 and 12, it is stated that by the bank "verified on 5-11-88, items found missing". ME11 and 12 are respective accounts of Geetha with respect to the gold loans. Even before the date of Ext. ME14 (7-11-88) sent by Geetha the inspection staff found that the gold items pledged by Geetha were found missing. If that be so, how can she give ME14 dated 7-11-88 and give an acknowledgement of receipt of gold ornaments. That itself is a curious conduct of the loanes. She is none other than the wife of the delinquent. This will falsify the defence taken up by the delinquent. As far as the management is concerned evidence was given by responsible persons of the bank their evidence was scrutinised by the enquiry officer and for valid reasons, the charges levelled against the workman were found proved. Ext. M1 file will show that the enquiry officer has scanned the evidence adduced before him. Three issues were raised by the enquiry officer. Elaborate discussion is made with respect to the evidence recorded by him. The delinquent has no case that he was not the joint custodian of the pledged items. All the defence contentions were met by the enquiry. In the light of these findings supported by legal evidence, it will be unfair and unjust on my part to re-assess the evidence and re-evaluate it as if I were doing the work of an appellate authority. Such a procedure is not insisted by law.

11. Then comes the question of punishment. It is a case where the delinquent while working as a clerk in a bank is proved to have committed misconduct by dishonestly dealing with pledged ornaments. In such cases no leniency is called for. Misconduct merits punishment. A bank is dealing with public money and property. Loyalty and honesty are expected from the employees. Theft of employee's property or dishonest dealing of property is a serious misconduct which deserves nothing short of dismissal. As has been held in an English case in Reg. Vs. Feely (1973) (I) Q.B. 530 a case coming under the Theft Act 1968, the honest employees have to be distinguished from the rogue. The honest employees, in an emergent situation may deal with the bank's money and he usually tells then and there what he has done. This is done by him at the time or shortly after the event. But a rogue says nothing until his taking is found out, where upon he asserts to repay and stresses his ability to do so. In order to have public confidence in the bank, public should be convinced that the employees therein are dealing with the money and articles honestly and not stealthily. As far as the present case is concerned it cannot be said that the delinquent deserves leniency. On the other hand, the management's stand that it has lost confidence in the delinquent has to be treated as a genuine plea. Suffice to say, the punishment of dismissal imposed on the workman is proper, valid and justifiable. No interference is called for. Points so found against the union.

12. In the result, the reference is answered the against the workman holding that the action taken against the delinquent workman in this case by the management bank was justifiable.

Ernakulam,
31-7-1995.

VARGHESE T. ABRAHAM, Presiding Officer
Appendix

Exhibits marked on the side of Management :

Ext. M1.—Domestic enquiry file relating the enquiry conducted against Sri. P. Vijayaraghavan.

नई दिल्ली, 19 सितम्बर, 1995

का.आ. 2727.—केन्द्रीय सरकार, बीड़ी कर्मकार कल्याण निधि नियम 1978 के नियम 3 के उपनियम (2) और नियम 16 के साथ पठित बीड़ी कर्मकार कल्याण निधि अधिनियम, 1976 (1976 का 62) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पश्चिमी बंगाल राज्य के लिए बीड़ी कर्मकार कल्याण निधि सलाहकार समिति गठित करती है, और उक्त समिति में निम्नलिखित व्यक्तियों को इस अधिसूचना के जारी करने की तारीख से नियुक्त करती है, अर्थात् :—

1. श्रम विभाग के भारसाधक मंत्री अध्यक्ष
पश्चिमी बंगाल सरकार, कलकत्ता।

2. कल्याण श्रावक,
श्रम कल्याण संगठन,
कलकत्ता। उपध्यक्ष (पदेन)
3. अपर श्रम श्रावक,
पश्चिमी बंगाल सरकार,
कलकत्ता। सदस्य (पदेन)
4. श्री अबुल हासनत,
विधान सभा सदस्य,
फरवका। सदस्य, राज्य विधान सभा
5. श्री आनन्द पाल,
द्वारा आर. टी. पॉल,
डा. घर औरंगाबाद,
मुंशिदाबाद। नियोजक का प्रतिनिधि
6. श्री अनिल कुमार दास
प्रबंधक निदेशक,
मैसर्स मृणालिनी बीड़ी मैन्युफैक्चरिंग नियोजक के प्रतिनिधि
कंपनी (प्राइवेट) लि.,
औरंगाबाद, जिला मुंशिदाबाद।
7. श्री जनाब मुमयून रजा,
विधान सभा सदस्य,
महासचिव,
जागीपुर महाकुमा बीड़ी श्रमिक संघ,
(बी.पी.एन.टी.यू.सी.),
1771 बी.ए.जे.सी. बसु रोड,
कलकत्ता-16। कर्मकारों के प्रतिनिधि
8. श्री मोहम्मद निजामुद्दीन,
सी.आई.टी.यू.सी.,
श्रमिक भवन,
53, जे.सी. बसु रोड,
कलकत्ता-16।
9. श्रीमती आरती दासगुप्ता,
श्रमिक भवन,
53, ए.जे.सी. बसु रोड,
कलकत्ता-16। महिला प्रतिनिधि
2. सलाहकार समिति का सचिव, कल्याण प्रशासक, कलकत्ता होगा।
3. उक्त सलाहकार समिति का मुख्यालय कलकत्ता में होगा।

[सं. य-19012/8/94-कल्याण 2(सी)]

अरविन्द रिसबुड, उप सचिव

New Delhi, the 19th September, 1995

S.O. 2727.—In exercise of the powers conferred by section 5 of the Beedi Workers Welfare Fund Act, 1976 (62 of 1976) read with sub-rule (2) of rule 3 and rule 16 of the Beedi Workers Welfare Fund Rules 1978, the Central Government hereby constitute the Advisory Committee for Beedi Workers Welfare Fund for the state of West Bengal and appoints the following persons to the said Committee with effect from the date of issue of this notification, namely :—

1. Minister-in-charge of
Labour Department,
Government of West Bengal,
Calcutta. . . Chairman
2. Welfare Commissioner,
Labour Welfare
Organisation . . . Vice-Chairman
Calcutta. (ex-officio)
3. Additional Labour
Commissioner,
Government of
West Bengal, . . . Member
Calcutta. . . (ex-officio)
4. Shri Abdul Hasanat, . . . Member of the
Farakka, State Legislative
Assembly
5. Shri Anand Paul,
C/o R. T. Paul,
P.O. Aurangabad . . . Employers'
Murshidabad. Representative
6. Shri Anil Kumar Das,
Managing Director,
Messers Mrinalini Biri
Manufacturing Company
(Pvt) Ltd., Aurangabad, . . . Employers'
Distt. Murshidabad. Representative
7. Shri Janab Mumayun Reza,
M.L.A.,
General Secretary,
Jangipur Mahakuma Biri
Shramik Union (BPNTUC),
177/B, A.J.C. Basu Road, . . . Employees'
Calcutta-16. Representatives
8. Shri Md. Nizamuddin,
CITU,
Shramik Bhavan,
53., A.J.C. Basu Road, . . . Employees'
Representative
9. Smt. Arati Dasgupta,
Shramik Bharmik Bhavan,
53, A.J.C. Basu Road, . . . Woman
Calcutta-16. . . Representative

2. Welfare Administrator Calcutta shall be Secretary of the Advisory Committee.

3. The headquarters of the said Advisory Committee shall be at Calcutta.

[No. U-19012/08/94-W.II(C)]

ARVIND RISBUD, Dy. Secy.

नई दिल्ली, 19 सितम्बर, 1995

का.आ. 2728.—जब कि मैसर्स फन स्कूल (इंडिया) लि., तारापुर टावर्स, 1/1 तल, 826, अन्ना सराय, मद्रास-2 में (इसके आगे यह प्रतिष्ठान के रूप में संदर्भित है) कर्मचारी भविष्य निधि योजना 1952 (1952 की 19) (इसके आगे इसे योजना के रूप में संदर्भित किया गया है) के अनुच्छेद 27-क के अंतर्गत छूट के लिए आवेदन किया है।

और जबकि केन्द्रीय सरकार की राय है कि अंशदान की दर के संबंध में प्रतिष्ठान के भविष्य निधि नियम कर्मचारियों के प्रति, उक्त अधिनियम के खंड 6 में विनिर्दिष्ट कर्मचारियों से, कम अनुकूल नहीं हैं व कर्मचारियों को भविष्य निधि के अन्य लाभ भी सुलभ हैं जो समग्र रूप से कर्मचारियों के प्रति, उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (इसके बाढ़ इसे योजना के रूप में संदर्भित किया गया है) के अंतर्गत, इसी प्रकार के किसी अन्य प्रतिष्ठान के कर्मचारियों को प्राप्त लाभों से, कम अनुकूल नहीं है।

अतः अब केन्द्रीय सरकार उक्त योजना के अनुच्छेद 27-क के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए और संलग्न अनुसूची में विनिर्दिष्ट शर्तों के आधार पर एतद्वारा उक्त प्रतिष्ठान के प्रबंधकीय/प्रशासनिक पद धारण करने वाले अधिकारियों को कर्मचारियों के एक वर्ग के रूप में उक्त योजना के सभी उपबंधों से छूट प्रदान करती है।

अनुसूची

1. उक्त स्थापना से संबंधित नियोक्ता, उक्त अधिनियम की क. भ. नि. योजना, 1952 के पैरा 27क के अंतर्गत केन्द्र सरकार द्वारा समय-समय पर दिये गये निदेश के अनुसार निरीक्षण के लिये सुविधायें प्रदान करेगा और ऐसे निरीक्षण प्रभार की अदायगी प्रत्येक माह की समाप्ति के 15 दिन के भीतर करेगा।

2. इस प्रतिष्ठान की भविष्य निधि नियमावली के अंतर्गत देय अंशदान की दर, किसी गैर छूट प्राप्त प्रतिष्ठान के संबंध में उक्त अधिनियम और इसके अंतर्गत बनायी गयी योजना के अंतर्गत देय दर से कम नहीं होगा।

3. अग्रिम के संबंध में, छूट प्राप्त प्रतिष्ठान की योजना कर्मचारी भविष्य निधि योजना, 1952 से कम लाभदायक नहीं होनी चाहिए।

4. उक्त योजना में कोई भी संशोधन, जो प्रतिष्ठान के विद्यमान योजना की तुलना में कर्मचारियों के लिये ज्यादा लाभदायक है, स्वतः ही प्रतिष्ठान पर लागू हो जायेगी। उक्त

प्रतिष्ठान के भविष्य निधि नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त की पूर्व स्वीकृति के बिना नहीं किया जायेगा तथा जब किसी संशोधन के द्वारा उक्त प्रतिष्ठान के कर्मचारियों के हितों के प्रभावित होने की संभावना हो, स्वीकृति देने के पूर्व क्षेत्रीय भविष्य निधि आयुक्त कर्मचारियों को अपने दृष्टिकोण प्रस्तुत करने का समुचित समय देंगे।

5. उन सभी कर्मचारियों (उक्त अधिनियम की धारा 2 (घ) में यथा परिभाषित) जो यदि स्थापना को छूट न दी गयी होती तो वे भविष्य निधि के सदस्य बनने के पात्र होते, को सदस्य बनाया जायेगा।

6. यदि कोई कर्मचारी, जो कर्मचारी भविष्य निधि (सांविधिक) या किसी अन्य छूट प्राप्त प्रतिष्ठान के भविष्य निधि का पहले से ही सदस्य है, उक्त प्रतिष्ठान में नियोजित होता है तो नियोक्ता को उसे तत्काल ही सदस्य के रूप नामांकित करना होगा तथा उसके पूर्ववर्ती नियोक्ता के पास उस कर्मचारी की जमा भविष्य निधि की राशि को अंतरित करवाकर उसके खाते में यह राशि जमा करवाने की व्यवस्था करनी होगी।

7. नियोक्ता, केन्द्रीय भविष्य निधि आयुक्त अथवा केन्द्रीय सरकार, जैसा भी हो, द्वारा समय-समय पर दिये गये निर्देशों के अनुसार भविष्य निधि के प्रबंधन के लिए न्यासी बोर्ड का गठन करेगा।

8. भविष्यनिधि न्यासी बोर्ड के पास जमा रहेगी जो अन्य बातों के साथ-साथ भविष्यनिधि में प्राप्तियों का उचित हिसाब किताब तथा उसमें से किए गए भुगतानों तथा उनके पास शेष धनराशियों के लिए कर्मचारी भविष्यनिधि संगठन के प्रति उत्तरदायी एवं जवाबदेह होगा।

9. न्यासीबोर्ड की प्रत्येक तिमाही में एक बार बैठक होगी तथा बोर्ड, केन्द्रीय सरकार/केन्द्रीय भविष्य निधि आयुक्त अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय-समय पर जारी किये गये दिशा-निर्देशों के अनुसार कार्य करेगा।

10. न्यासी बोर्ड द्वारा बनाए गए भविष्यनिधि खातों की एक योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वर्ष में एक बार लेखा परीक्षा की जाएगी। जहां आवश्यक समझा जाए, केन्द्रीय भविष्य निधि आयुक्त को किसी अन्य योग्य लेखा परीक्षक द्वारा खातों की पुनः लेखा परीक्षा करवाने का अधिकार होगा और उस पर आए व्यय को नियोक्ता द्वारा वहन किया जायेगा।

11. प्रत्येक लेखा वर्ष के लिए प्रतिष्ठान की लेखा-परीक्षित तुल्य पत्र के साथ लेखा-परीक्षित वार्षिक भविष्य निधि खातों की एक प्रति वित्तीय वर्ष के समाप्त होने के पश्चात् छः महीने के भीतर क्षेत्रीय भविष्य निधि आयुक्त को प्रस्तुत की जाएगी।

इस प्रयोजनार्थ भविष्य निधि का वित्तीय वर्ष 1 अप्रैल से 31 मार्च तक होगा।

12. नियोजक स्वयं तथा कर्मचारियों द्वारा देय भविष्य निधि के अंशदान को प्रत्येक उस माह से अगले माह की 15 तारीख तक न्यासी बोर्ड को अंतरित कर देगा जिसमें अंशदान देय होता है। नियोजक अंशदान की अदायगी में किए गए किसी विलंब के लिए न्यासी बोर्ड को उसी तरह से क्षतिपूर्ति करेगा जिस तरह से उन्हें परिस्थितियों में एक छूट प्राप्त प्रतिष्ठान करता है।

13. न्यासी बोर्ड धन को सरकार द्वारा समय-समय पर दिए जाने वाले निर्देशों के अनुसार निधि में निवेशित करेगा न्यासी बोर्ड के नाम से प्रतिभूति ली जाएगी और उसे भारतीय रिजर्व बैंक के जमान्दाता नियंत्रण के अधीन एक अनुसूचित बैंक के अधिकार में रखा जाएगा।

14. न्यासी बोर्ड सरकार द्वारा दिए गए निर्देशों के अनुसार निवेश न करने पर केन्द्रीय भविष्य निधि आयुक्त अथवा उसके प्रतिनिधि द्वारा यथा आरोपित अधिशुल्क को अदा करने के लिए पूरी तरह से और संयुक्त रूप से उत्तरदायी होगा।

15. न्यासी बोर्ड कर्मचारियों के लिये क्रम से एक रजिस्टर रखेगा और ब्याज की सामयिक वसूली सुनिश्चित करेगा।

16. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किया गया अंशदान, निकाली गई राशि एवं उस पर ब्याज को वर्णन के लिए एक विस्तृत लेखा रखेगा।

17. बोर्ड प्रत्येक वित्तीय/लेखा वर्ष के समाप्त होने के छह माह के अन्दर प्रत्येक कर्मचारी के लिए एक वार्षिक लेखा विवरण जारी करेगा।

18. बोर्ड वार्षिक लेखा विवरण जारी करने के बजाए प्रत्येक कर्मचारी को पासबुक जारी करेगा। वे पास-बुक कर्मचारियों के अधिकार में रहेगी और कर्मचारी द्वारा बोर्ड को प्रस्तुत करने पर अद्यतन कर दी जाएगी।

19. प्रत्येक कर्मचारी के खाते में प्रत्येक लेखा वर्ष के पहले दिन मासिक चालू शेष में उसी दर से ब्याज की गणना की जाएगी जो न्यासी बोर्ड द्वारा निश्चित किया जाएगा किन्तु वह उक्त योजना के पैरा 60 के अधीन केन्द्रीय सरकार द्वारा घोषित किए गए दर से कम नहीं होगा।

20. यदि न्यासी बोर्ड निवेश से कम लाभ प्राप्त होने अथवा किसी अन्य कारण से केन्द्रीय सरकार द्वारा घोषित की गई दर पर ब्याज देने में असमर्थ है, तो उसकी कमी नियोजक द्वारा पूरी की जाएगी।

21. नियोजक चोरी, धोखाधड़ी, गबन, दुरुपयोग अथवा किसी अन्य कारण से भविष्य निधि को होने वाले किसी अन्य घाटे को भी पूरा करेगा।

22. नियोजक और न्यासी बोर्ड भी केन्द्रीय सरकार/केन्द्रीय भविष्य निधि आयुक्त द्वारा समय-समय पर यथा निर्धारित विवरणियां क्षेत्रीय भविष्य निधि आयुक्त को भेजेंगे।

23. यदि ऐसे मामलों में, जिनमें उपरोक्त योजना के पैरा 69 के तहत निधि से किसी कर्मचारी की सदस्यता समाप्त हो जाती है, प्रतिष्ठान की भविष्य निधि नियमावली में कर्मचारी के अंशदान को जम्मा करने का प्रावधान है, तो न्यासी बोर्ड इस तरह से जम्मा की गई धनराशि के लिए अलग से लेखा-जोखा रखेगा और केन्द्रीय भविष्य निधि आयुक्त के पूर्व-अनुमोदन पर यथा-निर्धारित प्रयोजनों के लिए उसका उपयोग करेगा।

24. प्रतिष्ठान की भविष्य निधि नियमावली में निहित किसी बात के होते हुए भी सेवा निवृत्ति अथवा किसी अन्य प्रतिष्ठान में रोजगार प्राप्त करने पर किसी व्यक्ति की भविष्य निधि की सदस्यता समाप्त होने पर पाया गया कि यदि प्रतिष्ठान की भविष्य निधि नियमावली के अंतर्गत अप्रवर्तित इत्यादि भविष्य निधि अंशदान दर सांविधिक योजना के अंतर्गत दी गयी दर की तुलना में अनुकूल नहीं है तो उसका अन्तर नियोजक द्वारा वहन किया जायेगा।

25. खातों को तैयार करना, विवरणियां प्रस्तुत करना, संचित राशि का अन्तरण इत्यादि सहित भविष्य निधि के सभी प्रशासनिक खर्च नियोजक द्वारा वहन किए जायेंगे।

26. नियोजक, समुचित प्राधिकारी द्वारा अनुमोदित तथा समय-समय पर यथा संशोधित भविष्य निधि नियमावली, उसकी प्रमुख बातों को उस भाषा में जोकि वहां पर अधिकांश कर्मचारियों द्वारा बोली जाती है के अनुवाद सहित, प्रतिष्ठान के नोटिस बोर्ड पर प्रदर्शित करेगा।

27. "समुचित सरकार" इस संबंध में प्रतिष्ठान को छूट जारी रखने के लिए कुछ और शर्तें निर्धारित कर सकती है।

28. यदि उक्त अधिनियम के अंतर्गत भविष्य निधि अंशदान की दर बढ़ायी जाती है तो कर्मचारी भविष्य निधि अंशदान की दर में समुचित वृद्धि करेगा जिससे कि प्रतिष्ठान की भविष्य निधि योजना के अंतर्गत दिए जाने वाले लाभ उक्त अधिनियम के अंतर्गत दिए गये लाभों से कम लाभकारी नहीं हों।

29. उपर्युक्त शर्तों में किसी का भी उल्लंघन होने पर छूट को रद्द किया जा सकता है।

[सं. एस-35025/1/94-एस.एस. II]

जे. पी. शुक्ला, अवर सचिव

New Delhi, the 19th September, 1995

S.O. 2728.—Whereas Messrs Funksool (India) Ltd., Tarapore Towers, VI Floor, 826-Anna Sarai, Madras-2. (hereinafter referred to as the said establishment) has applied for exemption under para

27-A of the Employees' Provident Fund Scheme 1952 framed under the Employees Provident Funds & Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the said Act).

And whereas in the opinion of the Central Government the rules of the Provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employee's Provident Fund Scheme 1952 (hereinafter referred to as the said scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred under para 27A of the said scheme and subject to the conditions specified in the Schedule annexed hereto the Central Government hereby exempts the officers as a class of the employees holding managerial/administrative posts in the said establishment from the operation of all the provisions of the said Scheme.

SCHEDULE

1. The employer in relation to the said establishment shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under para 27A of the E.P.F. Scheme 1952 of the said Act within 15 days from the close of every month.

2. The rate of contribution payable under the provident fund rules of the establishment shall at no time be lower than those payable under the said Act in respect of the un-exempted establishment and the said Scheme framed thereunder.

3. In the matter of advances, the scheme of the exempted establishments shall not be less favourable than the Employees' Provident Fund Scheme, 1952.

4. Any amendment to the said scheme which is more beneficial to the employees than the existing rules of the establishment shall be made applicable to them automatically. No amendment of the rules of the Provident Fund of the said establishment shall be made without the previous approval of the Regional Provident Fund Commissioner and where any amendment is likely to affect adversely the interest of the employees of the said establishment, the Regional Fund Commissioner shall before giving his approval, give a reasonable opportunity to the employees to explain their points of view.

5. All employees (as defined in section 2(f) of the said Act who would have been eligible to become members of the Provident Fund had the establishment not been granted exemption shall be enrolled as members.

6. Where an employee who is already a members of the Employees' Provident Fund (Statutory) or a provident fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund and arrange to have the accumulations in the provident fund account of such employee with his previous employer transferred and credited to his account.

7. The employer shall establish a Board of Trustees for the management of the provident fund according to such directions as may be given by the Central Provident Fund Commissioner or by the Central Government, as the case may be, from time to time.

8. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees Provident Fund Organisation inter-alia for proper accounts of the receipts into and payments from the Provident Fund and the balance in their custody.

9. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government|Central Provident Fund Commissioner or any officer authorised by him.

10. The accounts of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary, the Central Provident Fund Commissioner shall have the right to have the accounts reaudited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

11. A copy of the audited annual provident fund accounts together with the audited balance sheet of the establishment for each accounting year shall be submitted to the Regional Provident Fund Commissioner within six months after the close of the financial year. For this purpose the financial year of the provident fund shall be from the 1st of April to the 31st of March.

12. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and the employees by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay damages to the Board of Trustees for any delay in payment of the contributions in

the same manner as an un-exempted establishment is liable under similar circumstances.

13. The Board of Trustees shall invest the monies in the fund as per directions that may be given by the Government from time to time. The securities shall be obtained in the name of the Board of Trustees and shall be kept in the custody of a scheduled Bank under the Credit Control of the Reserve Bank of India.

14. Failure to make investments as per directions of the Government shall make the Board of Trustees severally and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

15. The Board of Trustees shall maintain a scriptwise register and ensure timely realisation of interest.

16. The Board of Trustees shall maintain detailed accounts to show the contributions credited, withdrawal and interest in respect of each employee.

17. The Board shall issue an annual statement of accounts to every employee within six months of the close of financial|accounting year.

18. The Board may instead of the annual statement of accounts, issue pass books to every employee. These pass books shall remain in the custody of the employees and will be brought upto-date by the Board or presentation by the employees.

19. The account of each employee shall be credited with interest calculated on the monthly running balance as on the 1st day of the accounting year at such rate as may be decided by the Board of Trustees but shall not be lower than the rate declared by the Central Government under para 60 of the said Scheme.

20. If the Board of Trustees are unable to pay interest at the rate declared by the Central Government for the reason that the return on investment is less or for any other reason then the deficiency shall be made good by the employer.

21. The employer shall also make good any other loss, that may be caused to the Provident Fund due to theft, burglary, defalcation, mis-appropriation or any other reason.

22. The employer as well as the Board of Trustees shall submit such returns to the Regional Provident Fund Commissioner as the Central Government|Central Provident Fund Commissioner may prescribe from time to time.

23. If the Provident Fund rules of the establishment provide for forfeiture of the employees' contributions in cases where an employee ceases to be

a member of the fund on the lines of para 69 of the said Scheme, the Board of Trustees shall maintain a separate account of the amounts so forfeited and may utilise the same for such purposes as may be determined with the prior approval of the Central Provident Fund Commissioner.

24. Notwithstanding any thing contained in the Provident Fund Rules of the establishment, if on the cassation of any individual from the membership of the fund consequent on retiring from service or on taking up the employment in some other establishment, it is found that the rate of contribution rate of forfeiture etc., under the P.F. Rules of the establishment are less favourable as compared to these under the statutory scheme, the difference shall be borne by the employer.

25. The employer shall bear all the expenses of the administration of the Provident Fund including the maintenance of accounts, submission of re-funds, transfer of accumulations.

26. The employer shall display on the notice board of the establishment, a copy of the rules of the fund as approved by the appropriate authority as and when amended thereto alongwith translation of the salient points there of in the language of the majority of the employees.

27. the "appropriate Government" may by down any further conditions for continued exemption of the establishment.

28. The employer shall enhance the rate of provident fund contributions appropriately if the rate of provident fund contribution is enhanced under the said Act so that the benefits under the provident fund Scheme of the establishment shall not become less favourable than the benefits provided under the said Act.

29. The exemption is liable to be cancelled for violation of any of the above conditions.

[F. No. S-35025|1|94-SS.II]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 19 सितम्बर, 1995

का.प्रा. 2729.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबन्धन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15/9/1995 को प्राप्त हुआ था।

[सं. एल-21012/97/87-डी-III (बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 19th September, 1995

S.O. 2729.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C. Ltd. and their workmen, which was received by the Central Government on the 15th September, 1995.

[No. L-21012/97/87-DIII (B)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

CASE REF. NO. CGIT/LC(R)(105)|1988.

BETWEEN

Shri Rajan Prasad Shrivastava, represented through the Joint Secretary, INMOSSA, Damua Colliery, P.O. Damua, district Chhindwara (MP).

AND

The Chief General Manager, Western Coalfields Ltd., Pench & Kanhan areas, P.O. Dungaria, District Chhindwara (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : S.W. Mishra, Advocate.

For Management : Shri M. M. Chandok.

INDUSTRY : Coal Mine

DISTRICT : Chhindwara (MP).

AWARD

Dated : September 6, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-21012/97/87-D.III(B) dated 9-2-1988, for adjudication of the following industrial dispute:—

SCHEDULE

"Whether the action of the management of Damua Colliery of WCL, P.O. Damua, Distt. Chhindwara (M.P.) in not regularising Shri Rajan Prasad Shrivastava, Overman as Sr. Overman is justified. If not, what relief the workman is entitled to?"

2. Admitted facts of the case are that the workman was appointed in Damua Colliery on the post of Tub-loader in 1972 and subsequently he was promoted on the post of Mining Sirdar in 1975 and then on the post of Overman on 15-2-1977.

3. The case of the workman is that he was placed in the place of Shri Khaliluddin, Sr. Overman after his retirement from service with effect from 27-5-86; that the workman is continuously working as adhoc Sr. Overman since then and as per the Cadre Scheme he is entitled for the promotion/confirmation on the post of Sr. Overman; that the management has denied the confirmation of the workman as Sr. Overman. Workman has prayed for his regularisation/confirmation as Senior Overman and for consequential benefits.

4. The case of the management is that the Overman is a supervisory post and as such the applicant not being the workman is not entitled for the relief under the I.D. Act.

5. Case of the management further is that the post of the Senior Overman is a post of promotion and the workman was not found fit for the post of Sr. Overman.

6. Terms of reference was made the issue in the case.

7. The burden was on the workman to prove that he is a workman under the definition under Sec. 2(s) of the I.D. Act. Workman has led no evidence to show the nature of his work to prove that his case is covered by the definition of the Overman under Sec. 2(s) of the I.D. Act.

8. However, the post of Senior Overman is admittedly under the Cadre Scheme a promotion post. The promotion depends upon various factors such as suitability of candidate and the recommendation of the D.P.C. and the availability of the post etc. However, it is observed in case of Brooke Bond (India) Ltd. Vs. Workmen (1966-I-LLJ p. 402) that the promotion is a managerial function and the Tribunal can interfere in the matter of promotion only in case of malafide or victimisation by the management. Workman has failed to substantiate the fact that the promotion was denied to him on account of unfair labour practice or the victimisation. Consequently, it cannot be said that the action of the management in denying the promotion to the workman as Senior Overman was unjustified.

9. Reference is answered in favour of the management. The action of the management in not regularising the workman as Senior Overman is also justified. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 1995

का.आ. 2730.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस ई सी एल के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15/9/95 को प्राप्त हुआ था।

[सं. एल.-21012/6/88-डी III (बी)/डी IV (बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 19th September, 1995

S.O. 2730.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workmen, which was received by the Central Government on the 15-9-95.

[No. L-21012/6/88 D-III(B)|D-IV(B)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case Ref. No. CGIT|LC(R)(35)|1989

BETWEEN

Shri B. N. Mishra, represented through the Secretary, M. P. Koyla Shramik Sangh (CITU), Sohagpur Area, P.O. Dhanpuri, District Shahdol (M.P.)

AND

The Manager, Rungta Colliery of S.E.C.L., P.O. Rungta Colliery, District Shahdol (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES:

For Workman : Shri R. C. Srivastava, Advocate.

For Management : Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines DISTRICT : Shahdol (MP).

AWARD

Dated : September 5, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-21012/6/88-DIII(B)/DIV(B) Dated 3-2-89, for adjudication of the following industrial dispute:—

SCHEDULE

“Whether the action of the Management of Rungta Colliery of Sohagpur Area of M/s. SECL in not promoting Sri B. N. Mishra, Clerk Grade II to Grade I is justified? If not, to what relief the workman concerned is entitled?”

2. Admitted facts of the case are that Shri B. N. Mishra was appointed at Rungta Colliery on 1-2-70 as Clerk Grade III and was promoted in Clerk Grade II with effect from 1-11-1977.

3. The case of the workman is that as per Cadre Scheme for Ministerial Staff a Clerk Gr. II having experience of three years should be promoted to Clerk Gr. I and Clerk Gr. II on eight years experience is entitled to be promoted to Clerical Special Grade; that the workman, Shri B. N. Mishra, has completed eight years of satisfactory service and there was no adverse remarks against him, but the management has deliberately not considered him for promotion to the post of Clerk Gr. I; that Shri Mishra was superseded by his juniors and the action of the management was malafide because Shri Mishra is a Trade Union Leader. Workman has prayed for his promotion to Clerical Gr. I and for consequential benefits.

4. The case of the management is that according to the Cadre Scheme, promotion to the post of Clerk Gr. I is not automatic and it is done on the recommendations of the D.P.C.; that the work of the applicant was not satisfactory and he was not found suitable for the promotion by the D.P.C. However, the case of the management is that Shri B. N. Mishra has been promoted as Clerk Gr. I on 22-7-88 and as such the reference has become infructuous. Management has further prayed that the promotion is purely a managerial function and the action of the management of not promoting the workman was based on A.C.R. and the recommendations of the D.P.C.

5. Terms of the reference was made the issue in the case.

6. Management has filed the annual confidential report and other documents. Parties have not led any oral evidence.

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7. From the Cadre Scheme for the Ministerial Staff for their promotion of Clerical Grade II to Clerical Gr. I, it is clear that the promotion is made on the basis of the recommendation of the D.P.C. and it is not automatic on the completion of service of three years as Clerk Gr. II.

8. From the annual confidential report of the workman from 1982, 1983, 1984 and 1985, it is clear that there was adverse entries against the workman. Workman has failed to prove that the action of the management was in superseding or in not promoting the workman was on account of the victimisation or with malafide intention.

9. In case of Brooke Bond India Ltd. Vs. Their 1966-I-LLJ 402 and R. S. Das Vs. Union of India 1987 (2) Administrative Tribunal cases p. 6 & 8 the Hon'ble Supreme Court has observed that the promotion is the managerial function and the Tribunal can interfere only in case of malafide or victimisation. The workman was subsequently promoted from Clerk Gr. II to Clerk Gr. I vide order dated 22-7-88. Consequently, the action of the management in not promoting the workman as Clerk Gr. I before 22-7-88 is neither unjust nor improper.

10. The reference is answered in favour of the management. Terms of reference is only to the effect whether the action of the management in not promoting Shri B. N. Mishra to Grade I is justified or not. Workman was promoted with effect from 22-7-88 to Clerk Gr. I and before that the action of the management in not promoting him to Grade I is justified. Reference is answered accordingly. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 1995

का.आ. 2731.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी. आई. के प्रबन्धसूचक के संवद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कामपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-95 को प्राप्त हुआ था।

[सं. एल.—22012/232/92—आई आर (सी-II)]
राजा लाल, डेस्क अधिकारी

New Delhi, the 19th September, 1995

S.O. 2731.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal

Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on the 15-9-1995.

[No. L-22012/232/92-IR (C-II)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 137 of 1992

In the matter of dispute between :

State President,
F.C.I. Employees Congress,
5/6 Habibullah Estate,
Hazaratganj,
Lucknow.

AND

Senior Regional Manager,
Food Corporation of India,
5/6 Habibullah Estate,
Hazaratganj,
Lucknow.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-22012/232/92-IR (C-II) dated 10-12-92 has referred the following dispute for adjudication to this Tribunal—

Whether the action of Senior Regional Manager Food Corporation of India, Lucknow, in not promoting Sri Lachman Dass (Narula), as Asstt. Manager (Depot) w.e.f. 14-11-88 is justified? If not, to what relief the workman is entitled to?

2. It is common ground that the concerned workman Lachman Dass was originally appointed as Dusting Operator with the opposite party F.C.I. on 10-4-59. He was promoted to the post of A.G. III(D) on 1-4-68. He was further promoted to the post of A.G. II(D) in June 1969. Yet again he was again promoted to the post of A.G. I on 4-11-71. Finally he was promoted to the post of Asstt. Manager(D) on 14-11-86.

3. The grievance of the concerned workman is that his promotion order dt. 14-11-86 was not issued to the concerned workman hence he could

not know about it. It came to his knowledge in the year 1991. The action of the opposite party in not actually promoting the concerned workman to the post of Assistant Manager(D) in spite of passing of promotion order is bad in law. As the management has refused to implement the said order, the present industrial dispute was raised and on the basis of above facts the concerned workman has claimed for the post of Assistant Manager(D) w.e.f. 14-11-86, with all consequential benefits.

4. The management does not dispute that the order for promotion was passed in favour of the concerned workman promoting him to the post of Assistant Manager(D). Justifying their action in not giving effect to promotion order, it was further pleaded that this promotion was not served upon the concerned workman as his matter was kept in sealed cover as vigilance matter was pending regarding misappropriation of gunny bales containing wheats. The said matter was finally taken up and departmental proceedings were down against him. As a result of which he has been finally compulsorily retired w.e.f. 13/16-4-91. The said punishment has been challenged by way of writ petition No. 2923 of 1991 which is still pending.

5. The concerned workman has filed rejoinder in which nothing new has been said.

6. The point which needs consideration is as to whether there were good grounds for not actually promoting the concerned workman to the post of Asstt. Manager(D). As has been seen earlier the only justification which has been given is that vigilance case was pending and as such his matter was kept under sealed cover. The management has not adduced by evidence to show that the matter of the concerned workman was kept under sealed cover. In this regard some orders must have been passed by D.P.C. if actually his matter was kept under sealed cover. In the absence of any evidence, I am unable to agree with the representative of the concerned management that the matter was pending and that his matter was kept under sealed cover. Had it been so, the promotion order dt. 14-11-86 would have made a mention of it. I have gone through annexure I, which has been filed along with claim statement which goes to show that the concerned workman along with other have been promoted without any rider. Had the management any inkling or idea about conditioning the promotion of the concerned workman, they would have at least stipulated in this order itself that this promotion order is conditional subject to clearance by vigilance or that his matter is kept under sealed cover. Even on legal plane this contention does not stand to reason. Promotion is withheld in those cases where departmental proceeding is pending. The management has filed papers from which it appears that the concerned workman was issued a chargesheet

on 3-9-87 for misappropriation of 16 gunny bales the cost of which was about Rs. 23088. It is obvious from above that this chargesheet was issued much after passing of promotion order in 1986. In other words no enquiry was pending when promotion order was passed. In such a situation it cannot be said that promotion order could not be given effect to because of pendency of departmental proceedings. Hence, from this point of view too the action of the management in not giving effect to promotion order dated 14-11-86 was not justified. As the promotion order was passed without any pre-condition the workman was entitled for getting its benefit. As such first part of the reference should be answered in favour of the workman in negative.

7. It will have to be seen as to what relief the concerned workman will be entitled. Since the action of the management in not actually promoting him to the post of Assistant Manager (D) has been held to be not justified, the concerned workman will be deemed to have been promoted w.e.f. 14-11-86, and he will be entitled for difference of salary between A.G.I(D) and Assistant Manager (D) w.e.f. 14-11-86.

8. The certified copy of compulsorily retirement order and copy of order of Hon'ble High Court has also been filed from which it appears that the concerned workman on the basis of some departmental inquiry has been compulsorily retired from 13/16-4-91. The concerned workman has filed writ petition No. 2923 of 1991. The Hon'ble High Court had stayed the operation of the order of compulsorily retirement.

9. In view of above, I further order that in case Hon'ble High Court upholds the order of compulsorily retirement, the concerned workman will be entitled for difference of wages on the above basis till the date of compulsory retirements. In case Hon'ble High Court sets aside, the compulsorily retirement order, the concerned workman will further be entitled for difference of wages till he attains the age of superannuation.

10. Reference is answered accordingly.

Sd/-

B. K. SRIVASTAVA, Presiding Officer

Dt. 1-9-1995.

